KANSAS LEGISLATURE

2022 Summary of Legislation

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Kansas Legislative Research Department
300 SW 10th, Room 68-West, Statehouse
Topeka, Kansas 66612-1504

Telephone: (785) 296-3181
kslegres@klrd.ks.gov
www.kslegresearch.org

KLRD

Providing objective research and fiscal analysis for the Kansas Legislature

INTRODUCTION

This publication includes summaries of the legislation enacted by the 2022 Legislature. Not summarized are bills of a limited, local, technical, clarifying, or repealing nature, and bills that were vetoed (sustained). However, these bills are listed beginning on page 282.

During the 2022 Session, 560 bills were introduced: 266 in the Senate and 294 in the House. In addition, 252 Senate bills and 349 House bills were carried over from the 2021 Session, for a grand total of 1,161 bills that were alive during the 2022 Session. Of these 1,161 bills, 100 (8.6 percent) became law: 45 Senate bills and 55 House bills. Further, of the 100 bills becoming law, 92 (92.0 percent) were introduced by committees and 8 (8.0 percent) were introduced by individual legislators. [*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 11 bills and 3 line items in appropriations bills. Seven of the bill vetoes and all line item vetoes were sustained, and four vetoes were overridden.

Table of Contents

AGRICULTURE AND NATURAL RESOURCES

Meat Analogs; House Sub. for SB 261

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

Definitions

New Definitions

The bill adds definitions for "meat analog" and "identifiable meat term."

- "Meat analog" is defined as any food that approximates the aesthetic qualities, primarily texture, flavor and appearance, or the chemical characteristics of any specific type of meat, meat food product, poultry product, or poultry food product, but does not contain any meat, meat food product, poultry product, or poultry food product.

- "Identifiable meat term" is defined as including, but not being limited to, terms such as meat, beef, pork, poultry, chicken, turkey, lamb, goat, jerky, steak, hamburger, burger, ribs, roast, bacon, bratwurst, hot dog, ham, sausage, tenderloin, wings, breast, and other terms for food that contain any meat, meat food product, poultry product, or poultry food product.

Codification of Federal Definitions

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

Amended Definitions

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

Misbranding

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

- It is a "meat analog";

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

- The labeling does not have a disclaimer in a prominent and conspicuous font size, near the identifiable meat term, stating one of the following:

    - This product does not contain meat;
    - Meatless;
    - Meat-free;
    - Vegan;
    - Veggie;
    - Vegetarian;
    - Vegetable;
    - Plant-based; or
    - A disclaimer equivalent to these terms, as determined by the Secretary of Agriculture through rules and regulations.

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

Severability Clause

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

Advertising and On-Farm Sale of Milk and Milk Products; Certificate of Veterinarian Inspection; SB 346

SB 346 allows for the on-farm retail sale of milk or milk products, regulates the labeling and advertising of such products, extends the sunset date for certain milk and dairy license fees, allows the Secretary of Agriculture to declare an imminent health hazard when necessary to protect the public health, and allows the Kansas Department of Agriculture to assess a civil penalty for certain violations.

The bill also authorizes the Animal Health Commissioner to impose penalties for violations of the requirement to have a certificate of veterinarian inspection when transporting animals into the state.

Public Water Supply Loan Fund Projects; SB 358

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

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

SB 417 establishes new permit renewal fee limitations for solid waste disposal areas (disposal areas) and solid waste processing facilities (processing facilities) that are regulated by the federal standards for the disposal of coal combustion residuals (CCR). [*Note:* CCR are generated when coal is burned in electric power plants and then disposed of in landfills or surface impoundments.]

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

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

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

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

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

Kansas Cotton Boll Weevil Act; Industrial Hemp; Seeds; Plant Pests; HB 2559

HB 2559 establishes the Kansas Cotton Boll Weevil Act (Boll Weevil Act) and creates the Kansas Cotton Boll Weevil Program (Boll Weevil Program). The bill also creates law regarding industrial hemp testing services and seed treated with an irritating or poisonous substance, and updates laws that are administered by the Plant Protection and Weed Control Program of the Kansas Department of Agriculture (KDA).

Kansas Cotton Boll Weevil Act

The bill establishes the Boll Weevil Act and creates the Boll Weevil Program, which will be administered by a board of directors.

Boll Weevil Act and Definitions

The bill establishes the Boll Weevil Act and defines the terms "Act," "board," "cotton pest," "grower," "person," and "Secretary" for purposes of the Act.

Boll Weevil Program and Boll Weevil Board

The bill establishes the Boll Weevil Program and authorizes the Kansas Cotton Boll Weevil Program Board of Directors (Boll Weevil Board) to administer and implement the Boll Weevil Program.

Board membership. The Boll Weevil Board will consist of five voting members and three ex officio non-voting members: the Dean of the Kansas State University College of Agriculture, or the Dean's designee; the Secretary of Agriculture (Secretary), or the Secretary's designee; and the Kansas Cotton Association chairperson, or the chairperson's designee.

The bill requires the Board of Directors of the Kansas Cotton Association to submit seven nominations to the Secretary, from which the Secretary would appoint the five voting members.

Each appointed Boll Weevil Board member will serve a four-year term, and two of the Board members first appointed on and after the effective date of the bill will be appointed for two-year terms.

The Boll Weevil Board will elect a chairperson from the voting members of the Boll Weevil Board each year. The Boll Weevil Board will be required to meet at least once every calendar year in conjunction with the Kansas Cotton Association's annual meeting.

The bill requires, upon a vacancy on the Boll Weevil Board, or at least 30 days prior to the expiration of the term of any voting member, the Board of Directors of the Kansas Cotton Association to submit three nominations to the Secretary for each vacancy or expiring term, from which the Secretary will appoint a voting member.

Board authority. The Boll Weevil Board will have authority, for the purposes of administering and implementing the Boll Weevil Program, to:

- Establish and implement a cotton pest monitoring plan required to include:
    - Development and distribution of educational materials; and
    - Authority for the Board's designee to, subject to notice requirements, enter private property to:
        - Perform inspections of any cotton field upon the private property to determine whether an infestation of cotton exists or whether cotton pests are present on the property; and
        - Set and monitor traps;
    - Accept grants and donations;
    - Sue and be sued;

- Appoint and compensate an administrator, who is knowledgeable about the cotton industry, and other personnel as needed, and establish an office for the administrator at any place in the state selected by the Boll Weevil Board; and

- Enter into contracts for purposes of the Boll Weevil Act, including, but not limited to, collection of the cotton assessment or coordination with any local, state, or national organization or agency, whether private or created by state or federal law, engaged in work or activities similar to the work and activities of the Boll Weevil Board.

Private property notification. The bill requires an individual entering private property to perform inspections or to set or monitor traps to notify the owner, operator, or lessee of the property for the purpose of the entry and allow any present and notified owner, operator, or lessee, or any representative, to accompany the individual conducting the inspections or setting or monitoring traps.

Eradication plan. The bill allows the Boll Weevil Board to authorize the development and implementation of an eradication plan with the Secretary, pursuant to the Plant Pest and Agriculture Commodity Certification Act (KSA 2-2112 *et seq.*).

Cotton Bale Assessment

The bill authorizes the Boll Weevil Board to set an assessment per cotton bale at an amount not to exceed $2. The Boll Weevil Board will review, set, and communicate the assessment to cotton growers each year.

The assessment will be levied on a grower at the time of deposit at the cotton gin and will be collected and remitted to the Boll Weevil Board.

An in-state cotton gin that serves as the selling agent for the cotton products will be required to:

- Collect the assessment by deducting the assessment from the ginning price of the cotton as a ginning cost or from any funds advanced for ginning costs;

- Provide monthly reports to the Boll Weevil Board on or before the 15th day of each month regarding the collected assessments;

- Remit all of the collected assessments each month to the Boll Weevil Board;

- Provide the Boll Weevil Board with any other information reasonably requested by the Board to ensure the collection of the assessments; and

- Provide a copy of the sales invoice or other document showing the transaction to the grower that shows the amount of the assessment collected.

The bill authorizes an out-of-state cotton gin that serves as the selling agent for the cotton produced, subject to any contract with the Boll Weevil Board, to:

- Collect the assessment on behalf of the grower at the time of the deposit at the gin; and

- Remit all of the assessments collected each month to the Board.

On June 1 of each year, the bill requires each cotton gin required to collect an assessment to forward to the Boll Weevil Board an accounting of all assessments collected and paid, and payment for all assessments previously collected but not paid.

The bill requires all funds expended by the Boll Weevil Board for administration and payment of all claims from performance or neglect of any duties or activities pursuant to the Boll Weevil Act to be paid from proceeds of the assessment. The bill prohibits use of these funds for any other purposes.

Bank accounts used for operating and conducting the Boll Weevil Program's duties must be secured by pledge of securities in the manner prescribed in law for state bank accounts (KSA 75-4218). The bill requires an institution to be licensed by a state or by the federal government if the bank account is in an institution outside of the state.

Violations

Any violation of the Boll Weevil Act is a class C nonperson misdemeanor.

Discontinuation of Program

The Boll Weevil Program, or any activity conducted under the Boll Weevil Program, may be discontinued upon resolution of the Boll Weevil Program, or such activity, and with approval by the Secretary, if the Boll Weevil Board determines the Boll Weevil Program, or activity, is no longer necessary or reasonable to operate pursuant to the Boll Weevil Act.

Before the dissolution, however, the Boll Weevil Board will be required to file a final report with the Secretary, including a financial report, and submit all remaining funds to the Kansas Cotton Association. Final books of the Boll Weevil Program will be required to be filed with the Secretary and will be subject to audit by the Secretary.

The bill requires the Secretary to pay from the Boll Weevil Program's remaining funds all of the Boll Weevil Program's outstanding obligations and authorizes the Secretary to collect assessments until all obligations are paid, with any remaining funds returned to the Kansas Cotton Association.

The bill requires the Secretary to submit a final report to the Legislature upon the conclusion of all activities related to the dissolution of the Boll Weevil Program.

Commercial Industrial Hemp Act

The bill creates law regarding industrial hemp testing services and amends the Commercial Industrial Hemp Act to reflect the ending of the Industrial Hemp Research Program.

[*Note:* Kansas operates a U.S. Department of Agriculture-approved commercial industrial hemp production program.]

Industrial Hemp Testing Services

The bill allows the KDA to provide industrial hemp testing services to non-licensed persons or governmental entities, including law enforcement agencies, when available testing capacity is not required for testing industrial hemp produced by licensees subject to the Commercial Industrial Hemp Act.

The bill authorizes the Secretary to establish a fee schedule for any testing services through rules and regulations; any moneys received from fees will be deposited into the Laboratory Testing Services Fee Fund.

The bill requires KDA to provide the results of any tests to the Kansas Bureau of Investigation (KBI) upon request. The KDA will be required to coordinate testing services with the KBI in order to provide excess testing capacity without displacing any services that could also be provided by the KBI.

The bill will not limit the Secretary's authority to refuse to provide testing services to any non-licensee.

Definitions

The bill removes the definition of "seed research," and adds, to named Board of Regents institutions, any other college, university, technical college, or community college to the definition of "state educational institution."

Industrial Hemp Advisory Board

The bill requires the KDA to adopt rules and regulations to establish the Industrial Hemp Advisory Board as part of the Commercial Industrial Hemp Program. [*Note:* The current Industrial Hemp Advisory Board was created as part of the Industrial Hemp Research Program. The bill transfers the Industrial Hemp Advisory Board to the Commercial Industrial Hemp Program.]

The Industrial Hemp Advisory Board will provide input and information regarding the regulation and development of industrial hemp in Kansas. The Industrial Hemp Advisory Board will include a minimum of six members that represent:

- The Legislature;
- Crop research;
- Industrial hemp production or processing;
- Law enforcement;
- Seed certification; and
- The state entity designated to regulate hemp processors.

The bill requires the Industrial Hemp Advisory Board to meet at least once each year. Board members will receive no compensation but will be paid subsistence allowances, mileage, and other expenses as provided in law.

Fingerprinting

The bill authorizes the Secretary to determine whether to require fingerprinting of persons employed with KDA who are overseeing or regulating industrial hemp.

State Plan

The bill adds "standards for authorized seed or clone plants" to the list of topics to be included as part of the state plan for the Commercial Industrial Hemp Program and in the adoption of rules and regulations.

Kansas Seed Law

Treated Seed

The bill requires seed that has been treated with an irritating or poisonous substance that is harmful to humans or other vertebrate animals to be colored or dyed a color that clearly identifies the seed as treated. The bill also requires the seed to be labeled with specific language, as detailed in the bill.

The bill requires seed that has been treated with a substance that is not irritating, poisonous, or harmful to humans or other vertebrate animals to be labeled with a statement describing the applied substance.

The bill also requires seed that has been treated with an inoculant to be labeled with the inoculant's expiration date.

The bill allows a separate label to be used for the information required by the bill, but also allows this information to be included in the main label.

Definitions

The bill makes numerous changes to the definitions section of law regarding the sales and distribution of seeds, including naming that article of the statutes the Kansas Seed Law.

The bill adds definitions for "prohibited weed seed," "wild mustard (Brassica spp.)," "cover crop seed," "food plot," "oil seed," and "Act" or "Kansas Seed Law." The bill also adds a definition of "feminized seed," which means seeds produced by a cannabis sativa (hemp) plant that are specially bred, treated, or genetically engineered to eliminate male chromosomes to produce only female plants.

The bill amends definitions for "noxious weed seed," "restricted weed seed," "seizure," "hybrid," "chaffy range grasses," "blend," "mixture," and "grower of agricultural seed." The bill also amends the definition of "agricultural seed" to add oil seed, food plot seed, and any hemp

crop authorized by state law, and specifies that the definition does not include those seeds generally classified as vegetable, fruit, flower, tree, or shrub or grown for personal use or commercial sale, except cover crop seed. The bill deletes the definition of "horticultural seeds."

The bill also makes technical and conforming amendments to several definitions.

Labeling

The bill amends labeling requirements for seed by reorganizing subsections of continuing law and making technical changes. The bill adds a requirement that a label that makes claims that a bulk quantity, package, or parcel of hemp seeds contains feminized seeds include the percentage by weight of feminized seed.

Sales of Agricultural Seed

The bill amends wholesaler and retailer requirements by reorganizing subsections of continuing law and making technical changes.

The bill also adds required conditions for when a grower of agricultural seed, who sells or offers or exposes for sale agricultural seed that has not been tested and labeled, would not be in violation of law. The conditions include when the agricultural seed does not contain restricted weed seed in excess of the quantity established in rules and regulations adopted by the Secretary and is of a variety that is not prohibited from being sold or offered or exposed for sale by any legal, contractual, or other protection.

Wholesalers and Retailers

The bill prohibits wholesalers from offering or exposing seed for sale when the wholesaler knows or has reason to know the buyer or potential buyer is not actively registered with the Secretary, as provided by continuing law.

The bill authorizes the Secretary, after providing notice and an opportunity for a hearing in accordance with the Kansas Administrative Procedure Act (KAPA), to deny any application or revoke, suspend, modify, or refuse to renew any registration if the applicant or the holder of a registration has:

- Failed to comply with the law or rules and regulations;
- Failed to comply with law or rules and regulations of any other state or the United States related to the registration of agricultural seed dealers, seed testing, seed labeling, or seed certification; or
- Had revoked, suspended, or modified any license, certificate, registration, or permit issued by Kansas or any other state, or the United States, related to the registration of agricultural seed dealers, the testing of seed, the labeling of seed, or seed certification.

The bill removes registration requirements for seed conditioners.

Penalties and Court Orders

The bill authorizes the Secretary, after providing notice of an opportunity for a hearing in accordance with KAPA, to suspend, revoke, or deny any registration and assess a civil penalty against any person who violates or fails to comply with the Kansas Seed Law or any rules and regulations adopted under that law of $100 to not more than $1,000 per violation. The bill allows the Secretary, in the case of a continuing violation, to deem each day of the violation a separate violation. This civil penalty will be assessed in addition to any other penalty provided by law.

Inspection, Access, and Stop Sale Order

The bill amends law on inspection, access, and stop sale orders by the Secretary regarding agricultural seed. The bill authorizes the Secretary to adopt rules and regulations regarding stop sale and movement of agricultural seed in violation of the Kansas Seed Law, and enter into agreement with the U.S. Department of Agriculture (USDA) on seed law enforcement [*Note:* Continuing law allows the Secretary to cooperate with the USDA in seed law enforcement.]

The bill authorizes the law to apply to any seed the Secretary has reason to believe is or may be exposed for sale, except for agricultural seeds that are clearly and permanently marked as not for sale and stored separately from seed that is or may be offered for sale.

Clarification of Current Law

The bill clarifies law regarding the actions the Secretary must take upon determination that a violation of this act or rules and regulations had occurred and clarifies the Secretary's rules and regulations authority.

Plant Pest and Agriculture Commodity Certification Act

Definitions

The bill adds definitions of "temporary location" and "special event live plant dealer" and makes technical changes to continuing definitions.

Inspection Fees

The bill increases the cap for inspection fees from $30 to $45 for inspections requested by any person who owns or possesses plants or plant products or for certification purposes of regulated articles intended for shipment.

Exemption; Application Fee; License Fees

The bill adds "advertising for sale" to the list of actions before which every live plant dealer must procure a live plant dealer's license for each location from which a live plant dealer engages in business. The bill also adds an exemption to this requirement for temporary locations that are registered with the Secretary.

The bill increases the cap for an application fee for a live plant dealer's license from $80 to $100.

The bill establishes a reduced license fee for live plant dealers who do not export live plants from the state, have annual gross receipts under $10,000, and have only one location, other than temporary locations. The bill limits the fee to $50, excluding the plant pest emergency fee. The bill requires the application for the reduced fee to be on a license application form provided by the Secretary.

The bill establishes a late fee of $25 if a license is renewed on or after January 31 of each year or $50 if the license is renewed after March 1. A live plant dealer license will not be issued until all fees are paid.

The bill requires any person who conducts business as a special event live plant dealer to register with the Secretary in a form and manner prescribed by the Secretary.

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

HB 2560 extends the sunset for the Water Right Transition Assistance Program (WTAP) from July 1, 2022, to July 1, 2030, and extends the sunset for various existing fees of the Pesticide and Fertilizer Program within the Kansas Department of Agriculture (KDA) from July 1, 2023, to July 1, 2028. [*Note:* WTAP is a KDA program that seeks to reduce the consumptive use of water from areas with declining supply, *i.e.*, the Ogallala/High Plains Aquifer in west-central Kansas.]

The bill extends the sunsets of the following fees:

- Penalty fee for not paying an inspection fee within a 30-day period of registering any commercial fertilizer;
- Application fee for a pesticide business license or renewal and additional fee for each uncertified individual employed by the applicant to apply pesticides;
- Application fee for government agency registration for pesticide;
- Registration fee for pest control technicians;
- Examination fee and re-examination fee for an applicant for a commercial applicator's certificate;
- Certificate fee for a certified private applicator;
- Application fee for a chemigation user's permit;
- Certification or certification renewal fee for a chemigation equipment operator;
- Permit fee to appropriate water and to appropriate water for storage;

- Application fee to change the place of use, the point of diversion, or the use made of the appropriated water; for a term permit to appropriate water; or for a term permit to appropriate water for storage;

- Field inspection fee;

- Application fee to request an extension of time to complete the diversion works or perfect the water right or to reinstate a water right or a permit to appropriate water that has been dismissed; and

- Permit fee for temporary water use and extensions.

Veterinary Training Program; HB 2605

HB 2605 expands and clarifies the requirements for the Veterinary Training Program for Rural Kansas (Program) at Kansas State University College of Veterinary Medicine (KSU CVM) and creates an advisory committee to oversee the Program.

Advisory Committee

The bill creates an advisory committee to help select students, determine the needs of the Program, and provide input to the KSU CVM. The advisory committee will consist of members including:

- Two representatives from the Kansas Veterinary Medical Association (KVMA);
    - Including one member of the KVMA's Executive Committee, and
    - One member who has received the scholarship under the Program;
- The Animal Health Commissioner;
- Two members appointed by the Kansas Department of Agriculture (KDA); and
- Two representatives from the KSU CVM.

Changes to the Program

Current law provides each student enters the Program with a loan of $20,000 per year. The bill changes the loan amount to an amount not to exceed $25,000 per year. The bill also allows veterinary students who are past their first year to enter into the Program.

For each person signing an agreement to enter the Program, the bill changes the requirements for engaging in the full-time practice of veterinary medicine after graduation. The student could engage in either of the following:

- Full-time practice of veterinary medicine in any Kansas county with a population not exceeding 40,000 people (increased from 35,000 people); or

- Full-time practice of veterinary medicine in a registered veterinary premise under a licensed veterinarian, if food animal patients make up at least 50 percent of such veterinarian's practice.

The bill also makes clarifying amendments regarding program agreements with veterinary students who have met the requirements of the bill.

Continuation of Agreement

The bill allows a person engaged in the full-time practice of veterinary medicine in accordance with a program agreement to continue practice in a county that no longer meets the county population requirement, provided the person is practicing in a registered veterinary premises where food animal patients make up at least 50 percent of the practice.

Definitions

The bill adds definitions for "animal," "advisory committee," and "food animal."

ALCOHOL AND DRUGS

Sale, Consumption, and Allowable Alcohol by Volume of Liquor and Cereal Malt Beverage; SB 2

SB 2 amends various provisions in the Kansas Liquor Control Act (KLCA) and the Club and Drinking Establishment Act concerning the sale, consumption, and allowable alcohol by volume of alcoholic liquor and cereal malt beverage.

State Fair Alcoholic Liquor Consumption

The bill amends provisions authorizing consumption of alcoholic liquor on the State Fairgrounds to specify that alcoholic liquor could be consumed on the State Fairgrounds within boundaries that have been marked with a three-dimensional barrier if:

- It is domestic beer or wine and is consumed only for purposes of judging competitions;
- It is during certain permitted events of 75 people or less that are not a part of the annual State Fair event; or
- It is alcoholic liquor that is sold during the State Fair event, or as authorized by the Kansas State Fair Board (Board), by the holder of a temporary permit in accordance with the provisions of the bill.

Temporary Permit—State Fair

The bill amends law to allow issuance of a temporary permit for the sale of alcoholic liquor on the State Fairgrounds during the State Fair event, or as authorized by the Board, provided the Board has authorized such consumption and possession of alcoholic liquor.

The bill requires any temporary permit application to specify the premises within the State Fairgrounds where wine or beer could be consumed, including a diagram of the premises covered by the permit. The bill requires the diagram to match the entirety of the premises as leased from the Board. Additionally, the bill requires the boundaries of the State Fairgrounds to be clearly marked by signs, a posted map, or other means that would identify the area in which alcoholic liquor could be possessed or consumed.

The bill also provides that each temporary permit holder will be liable for violations that occur in the temporary premises, but permit holders could also allow alcoholic liquor to be removed from the temporary premises and onto the State Fairgrounds.

The bill makes further conforming changes to existing law to allow the Director of Alcoholic Beverage Control, Kansas Department of Revenue (ABC Director) to issue temporary

permits. Currently, the ABC Director may only issue temporary permits for consumption of wine or beer, or both, on the State Fairgrounds.

Temporary Permit—Statewide

The bill prohibits a city, county, or township from charging more than $25 for a temporary permit for the selling and serving of alcoholic liquor for each permitted day, and such permit fee will be nonrefundable.

The bill also expands the maximum number of temporary permits an applicant could be issued in a calendar year from 4 to 12 and requires all liquor drink taxes due from a previous temporary permit to be paid before an applicant could be approved for another temporary permit.

Distribution of Liquor Drink Taxes

The bill requires 30.0 percent of the liquor drink taxes collected on the State Fairgrounds to be remitted to the State General Fund (SGF) and the remaining taxes to be distributed to the State Fair Capital Improvements Fund. Formerly, 25.0 percent of remitted liquor drink taxes were distributed to the SGF and 5.0 percent of remitted liquor drink taxes were distributed to the Community Alcoholism and Intoxication Programs Fund, with the remaining taxes distributed to the Local Alcoholic Liquor Fund.

The bill further specifies that if the State Fair event were to be located outside the city limits of Hutchinson, the distribution provisions would expire.

Sales Between Retail Liquor Stores and Licensees

The bill amends the KLCA regarding where a licensed liquor retailer may sell and deliver alcoholic liquor and cereal malt beverage (CMB) to a public venue, club, or drinking establishment licensee for resale by such licensee, to allow such sales to licensees located in a corner located within two miles measured along the adjacent county boundary, in addition to in the same or in an adjacent county as the licensee's premises as in continuing law.

Farm Wineries—Issuance of CMB License

The bill requires the board of county commissioners, the governing body of the city, or the ABC Director to issue a CMB retailer's license to licensees who have already been issued a farm winery license and satisfy the requirements for such CMB retailer's license. Licensing authorities will not be able to deny a CMB retailer's license on the basis of zoning or other regulations or any city or county resolutions or ordinances.

The bill also eliminates a provision requiring a recipient of a CMB retailer's license to be of good character and reputation in the community in which the person resides.

The bill also amends related liquor licensing statutes to conform with the issuing requirement for farm wineries.

Domestic Wine—Allowable Alcohol by Volume

The bill amends the KLCA's definitions of certain domestic wine classifications to raise the allowable alcohol by volume (ABV) level and makes a corresponding amendment to current law concerning gallonage taxes.

The bill amends the definition of domestic fortified wine to include wine manufactured in Kansas of more than 16.0 percent ABV but no more than 20.0 percent ABV. Current law defines such wine as having more than 14.0 percent ABV and a maximum of 20.0 percent ABV.

The bill amends the definition of domestic table wine to include wine manufactured in Kansas with no more than 16.0 percent ABV. Current law defines such wine as having a maximum of 14.0 percent ABV.

The bill also makes corresponding changes to current statutory provisions on gallonage taxes to replace references to 14.0 percent ABV with 16.0 percent ABV.

Effective Date

The provisions of the bill relating to consumption of alcoholic liquor on the State Fairgrounds, temporary permits, issuance of CMB retailer licenses to farm wineries, and sale and delivery of alcoholic liquor and CMB between retail liquor stores and other licensees took effect upon publication in the *Kansas Register*.

The provisions of the bill relating to the percentage of ABV in domestic table wine and domestic fortified wine will be effective on January 1, 2023.

BUSINESS, COMMERCE, AND LABOR

Legal Advertising; Protected Health Information; SB 150

SB 150 creates law related to legal advertising and the use of protected health information to solicit individuals for legal services.

Requirements for Legal Advertisement

The bill creates a statutory section stating that a person engaging in legal advertisement within Kansas is required to:

- Disclose, at the outset of the advertisement, that "This is a paid advertisement for legal services";
- Not present an advertisement as a "medical alert," "health alert," "consumer alert," "public service announcement," or similar terms;
- Not display the logo of a federal or state governmental agency in a manner that suggests affiliation with or the sponsorship of that agency;
- Not use the word "recall" when referring to a product that has not been recalled by a governmental agency or through an agreement between a manufacturer and governmental agency;
- Identify the sponsor of the advertisement;
- Indicate the identity of the attorney or law firm that will represent clients, or how cases will be referred to attorneys or law firms that will represent clients;
- If the advertisement is soliciting clients who may allege an injury from a U.S. Food and Drug Administration (FDA)-approved prescription drug, include the following warning: "Do not stop taking a prescribed medication without first consulting with your doctor. Discontinuing a prescribed medication without your doctor's advice can result in injury."; and
- If the advertisement is for a lawsuit soliciting clients who may allege an injury from a FDA-approved prescription drug or medical device or from a medical device substantially equivalent to an approved medical device, disclose that the drug or medical device remains approved by the FDA, unless the product has been recalled or withdrawn.

The bill requires any words or statements that must appear in an advertisement to be presented clearly and conspicuously, and written disclosures to be clearly legible. If such disclosures are televised or displayed electronically, the bill requires them to be displayed for a

sufficient time to enable the viewer to easily see and fully read the disclosure or disclaimer. If an advertisement contains spoken disclosures, the bill requires such disclosures to be plainly audible and clearly intelligible.

Use of Protected Health Information

The bill creates a statutory section stating a person may not use, cause to be used, obtain, sell, transfer, or disclose to another person without written authorization protected health information for the purpose of soliciting an individual for legal services.

The bill specifies that nothing in this section applies to the use or disclosure of protected health information to an individual's legal representative, in the course of any judicial or administrative proceeding, or as otherwise permitted or required by law.

Violations; Effect on Regulation of Attorneys

In both sections, the bill provides that any violation constitutes an unlawful and deceptive trade practice under the Kansas Consumer Protection Act (KCPA), subject to the penalties provided for in that act. In addition to the penalty under the KCPA, any person who knowingly violates the section regarding protected health information is guilty of a class A nonperson misdemeanor. The bill also states that nothing in either section may be construed to limit or otherwise affect the authority of the Kansas Supreme Court to regulate the practice of law or enforce rules relating to attorneys.

Definitions

The bill defines "person" to mean an individual or an entity that is not an attorney or law firm and that advertises legal services or identifies potential clients for attorneys or law firms. "Legal advertisement" means a solicitation for legal services, other than legal services performed by a *bona fide* nonprofit provider of *pro bono* legal services, through television, radio, or internet, including a domain name, newspaper or other periodical, outdoor display, or any other written, electronic, or recorded communication. The term "protected health information" means any information, including genetic information, whether oral or recorded in any form or medium that relates to the past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of health care to an individual. Finally, "soliciting" means offering to provide legal services provided by an identified attorney or law firm through written, recorded, or electronic communication, or in-person, telephone, or real-time electronic contact.

Kansas Targeted Employment Act; Unemployment Compensation; My Reemployment Plan Program; HB 2703

HB 2703 creates the Kansas Targeted Employment Act (Act), which establishes a tax credit for businesses that employ individuals who are Kansas residents with developmental disabilities, and amends law related to unemployment compensation regarding out-of-state reimbursing employers, fund control tables, solvency and credit rate schedules, and the My Reemployment Plan program.

Kansas Targeted Employer Act

For tax years 2022 through 2027, a tax credit can be claimed by a "targeted employment business," as that term is defined by the bill or by a taxpayer outsourcing work to such a business. For every hour of work provided by an "eligible individual," as that term is defined by the bill, the qualified business earns a tax credit equal to 50.0 percent of the wages paid, not to exceed $7.50 per hour. The bill caps the annual total of tax credits at $5.0 million. The tax credit will be nonrefundable and cannot be carried forward. To qualify for the tax credit, a business will apply to the Secretary of Revenue by providing the names of the eligible individuals, the hourly wage rate, the hours worked, and the gross wages excluding leave compensation.

The bill directs the Secretary for Aging and Disability Services to develop and implement a program to measure the results of the tax credits and analyze the employment of individuals with developmental disabilities, their quality of life while employed, and the impact upon taxpayer savings and government programs.

The Secretary for Aging and Disability Services will be required to annually report findings to the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce. The bill allows the Secretary for Aging and Disability Services to require the release of certain tax data as a condition of a business' participation in the tax credit program in order to assist with the analysis. In addition, the Secretary of Revenue will be required to provide tax information to the Secretary for Aging and Disability Services as necessary to enable the Secretary for Aging and Disability Services to to fulfill the analysis. The bill will require any confidential tax information to remain confidential in a manner that will not permit the identification of eligible individuals or targeted employment businesses.

The Secretary for Aging and Disability Services and the Secretary of Revenue are authorized to adopt rules and regulations necessary to administer the bill.

Unemployment Compensation and the My Reemployment Plan

Out-of-State Reimbursing Employers

The bill expands the definition of employment in employment security law to include services performed in the employ of any state or political subdivision of a state, rather than only in Kansas or political subdivisions of Kansas.

Fund Control Tables

The bill makes technical changes to fund control tables used to determine employer contribution rates.

Potential Application of Credit Rate Schedule

The bill specifies that the provision applying the standard rate schedule in effect in 2023, absent a second transfer of up to $250.0 million of federal Coronavirus Relief Funds to the Unemployment Insurance Trust Fund, is not in effect if a credit schedule would otherwise apply.

Solvency and Credit Rate Schedules

The bill reduces the number of decimal points in solvency and credit rate schedule tables from five or six to a maximum of two.

My Reemployment Plan

The bill expands the list of unemployment compensation claimants not required to participate in the My Reemployment Plan program (Program) to include all claimants who meet one of the following conditions:

- In a shared work program;
- In trade adjustment assistance and trade readjustment assistance program;
- On temporary layoff with a return-to-work date only during the first eight consecutive weeks of benefits;
- Currently employed;
- Current participant in reemployment services and eligibility assessment;
- Active member of a placement union and in good standing; or
- Engaged in a training program.

Additionally, the bill changes the requirement to participate in the Program from claimants claiming three continuous weeks of benefits to claimants claiming three or more weeks of benefits in the current benefit year. The obligation to request claimants provide a resume shifts from the Secretary of Commerce to the Secretary of Labor, and the resume must be uploaded in the Kansasworks system. The amount of time for claimants to respond is extended from 7 to 14 days. The Secretary of Commerce is required to monitor claimants who participate in the Program and participate in training managed by workforce centers to ensure compliance.

The Secretary of Commerce has the responsibility for monitoring participation in work skills training and retraining programs under the Program, and the Secretary of Commerce is responsible for reporting non-compliant claimants to the Department of Labor.

CONSTITUTIONAL AMENDMENTS

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

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

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

> The purpose of this amendment is to provide the legislature with oversight of state executive branch agencies and officials by providing the legislature authority to establish procedures to revoke or suspend rules and regulations.
>
> A vote for this proposition would allow the legislature to establish procedures to revoke or suspend rules and regulations that are adopted by state executive branch agencies and officials that have the force and effect of law.
>
> A vote against this proposition would allow state executive branch agencies and officials to continue adopting rules and regulations that have the force and effect of law without any opportunity for the legislature to directly revoke or suspend such rules and regulations.

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

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

Election of County Sheriffs Constitutional Amendment; HCR 5022

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

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

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

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

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

> This amendment would preserve the right of citizens of each county that elected a county sheriff as of January 11, 2022, to continue electing the county sheriff. The amendment would also provide that a county sheriff only may be involuntarily removed from office pursuant to either a recall election or a writ of *quo warranto* initiated by the attorney general.
>
> A vote for this proposition would preserve the right of citizens of each county that elected a county sheriff as of January 11, 2022, to continue electing the county sheriff via popular vote. The amendment would also direct that a county sheriff only may be involuntarily removed from office pursuant to either a recall election or a writ of *quo warranto* initiated by the attorney general.
>
> A vote against this proposition would not make any changes to the constitution and would retain current law concerning the election of a sheriff and the procedures for involuntary removal of a sheriff from office.

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

CRIMES AND CRIMINAL MATTERS

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

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

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

Kansas Offender Registration Act Amendments; SB 366

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

Relief from KORA Registration for Certain Drug Offenders

The bill allows a drug offender to file a verified petition for relief from registration requirements if the offender has registered for a period of at least five years after parole, discharge, release, conviction, or adjudication. Time spent in incarceration, or time during which the offender does not substantially comply with KORA requirements, does not count toward the five-year duration of the registration period. An offender who must register due to an out-of-state conviction or adjudication is not eligible to apply for relief under the bill unless that jurisdiction no longer requires the offender to file.

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

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

- The offender has not been convicted or adjudicated of a felony, other than a violation of KORA, within the five years immediately preceding the filing of the petition, and no proceedings involving any such felony are presently pending or being instituted against the offender;

- The offender's circumstances, behavior, and treatment history demonstrate that the offender is sufficiently rehabilitated to warrant relief; and

- Registration of the offender is no longer necessary to promote public safety.

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

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

The bill creates an exception to allow offenders who have successfully been removed from the offender registry to petition for expungement of that offense and allows an offender to combine a petition for relief from registration requirements with a petition for expungement, if the offense is otherwise eligible for expungement.

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

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

- Installing or using a concealed camcorder, motion picture camera, or photographic camera of any type to secretly videotape, film, photograph, or record, by electronic or other means, another identifiable person under or through the clothing being worn by that other person or another identifiable person who is nude or in a state of undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to invade the privacy of that other person, under circumstances in which that other person has a reasonable expectation of privacy;

- Disseminating or permitting the dissemination of any videotape, photograph, film, or image obtained in violation of the above provision; or

- Disseminating any videotape, photograph, film, or image of another identifiable person 18 years of age or older who is nude or engaged in sexual activity and under circumstances in which such identifiable person had a reasonable expectation of privacy, with the intent to harass, threaten, or intimidate such identifiable person, and such identifiable person did not consent to such dissemination.

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

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

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

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

Crimes of Theft of Mail and Burglary; Supervision Consolidation; Criminal History Calculation and Correction of Illegal Sentence; Transfer of Certified Drug Abuse Treatment Programs to Sentencing Commission; SB 408

SB 408 amends the definition of the crime of theft, amends the definition of the crime of burglary, provides guidance for the consolidation of supervision into one supervision entity or agency for an offender under the supervision of two or more supervision entities or agencies, amends law concerning criminal history calculation and correction of an illegal sentence or clerical error, and transfers provider certification duties for certified drug abuse treatment programs (SB 123 programs) for drug offenders or divertees from the Kansas Department of Corrections to the Kansas Sentencing Commission.

Crime of Theft of Mail

The bill amends the definition of the crime of theft to make theft of property that is mail of value of less than $1,500 from three separate locations within a period of 72 hours as part of the same act or transaction, or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct, a severity level 9 nonperson felony. [*Note:* Under continuing law, theft of property or services of the value of less than $1,500 is a class A nonperson misdemeanor, unless an exception, such as the one created by the bill, applies.]

The bill defines "mail" as a letter, postal card, package, or bag sent through the U.S. Postal Service or other delivery service, or any other article or thing contained therein, or a sealed article or thing addressed to a person.

Crime of Burglary

The bill amends the definition of the crime of burglary by expanding the locations in which a person may not, without authority, enter or remain within to include any locked or secured portion of any dwelling or building, manufactured home, mobile home, tent, or other structure which is not a dwelling, with intent to commit a felony, theft, or sexually motivated crime therein. The bill also amends the definition of the crime of aggravated burglary to prohibit the same conduct when there is a human being present in the locations specified by the bill.

Consolidation of Supervision

The bill provides guidance for the consolidation of supervision into one supervision entity or agency for an offender under the supervision of two or more supervision entities or agencies.

The bill amends the statute governing transfer of supervision of persons on parole, on probation, assigned to a community correctional services program, or under suspended sentence to allow the district court where the defendant is currently being supervised to use the

guidelines to determine whether it is appropriate to transfer jurisdiction of the defendant to a different district court or retain the jurisdiction.

District Court Transferring Supervised Offenders to Another District Court

If the defendant is being sentenced and is already being supervised on parole, on probation, assigned to a community corrections program, or under suspended sentence, then the district court where the defendant is currently being supervised is authorized to use the guidelines to determine whether it is appropriate to transfer jurisdiction of the defendant to a different district court.

Two supervision entities or agencies. If a new sentence would place the defendant under the supervision of two supervision entities or agencies, the bill authorizes the court to consider:

- Granting jurisdiction to the court with jurisdiction over the offense that has the longest underlying sentence of imprisonment; and
- Whether the severity of the new offense requires a higher level of supervision.
- If a higher level of supervision is not required, the bill states there may be a preference for maintaining supervision of the defendant by the current supervising entity or agency for the duration of supervision.
- If a higher level of supervision is required, the bill states there may be a preference for transferring supervision responsibility of the defendant to the appropriate supervision entity or agency for the duration of the supervision.

Two or more supervision entities or agencies and equal sentences. If two or more supervision entities or agencies are supervising the defendant for equal sentences, the bill authorizes the court to consider:

- Residency of the defendant;
- Ability of the defendant to travel to the supervision office from the defendant's residence, place of employment, and school;
- Resources for residential and nonresidential sanctions or rehabilitative treatment available from each supervision entity or agency; and
- Level of supervision available to the defendant by each supervision entity or agency.

District Court Retaining Jurisdiction

Under continuing law moved within the section by the bill, the district court from which the defendant is on parole, probation, assignment to a community correctional services

program, or suspended sentence may retain jurisdiction of the defendant. The bill adds language providing that, if this happens, the defendant will be supervised by one supervision entity or agency.

Memorandum of understanding. The bill requires the Kansas Department of Corrections and the Office of Judicial Administration to enter into a memorandum of understanding (MOU) providing that a defendant on parole, probation, assignment to a community correctional services program, or suspended sentence will be supervised by one supervision agency or entity. The MOU must include, but not be limited to, provisions related to:

- Criteria for determining the most appropriate supervision agency or entity;
- How the financial obligations of supervision will be managed;
- Conditions of supervision;
- Sanctions for violations of supervision;
- Standards for seeking revocation of parole, probation, assignment to a community correctional services program, or suspended sentence;
- Termination of supervision; and
- Information sharing between supervision entities or agencies.

Criminal History Calculation and Correction of Illegal Sentence or Clerical Error

The bill amends law concerning criminal history calculation and correction of an illegal sentence or clerical error.

Criminal History Calculation

The bill amends law related to criminal history calculation by providing that if an offender raises a challenge to the offender's criminal history for the first time on appeal, the offender will have the burden of designating a record that shows prejudicial error in the calculation of criminal history. The bill requires the appellate court to dismiss the claim if the offender fails to provide such a record.

The bill further specifies that in designating a record that shows prejudicial error, the offender may provide the appellate court with journal entries of the challenged criminal history that were not originally attached to the criminal history worksheet, and the State may provide the appellate court with journal entries establishing a lack of prejudicial error.

The bill allows the court to take judicial notice of such journal entries, complaints, plea agreements, jury instructions, and verdict forms for Kansas convictions when determining whether prejudicial error exists. The bill also allows the court to remand the case if there is a reasonable question as to whether prejudicial error exists.

Correction of an Illegal Sentence or Clerical Error

The bill amends law concerning appellate review of certain sentencing matters, to specify that in addition to a departure sentence, as provided in continuing law, a ruling on a motion for correction of an illegal sentence is subject to appeal by the defendant or the State. Continuing law provides that such appeal shall be to the appellate courts in accordance with rules adopted by the Kansas Supreme Court.

The bill also specifies that the sentencing court shall retain authority irrespective of any appeal to correct an illegal sentence or clerical error pursuant to continuing law. The bill further specifies that, notwithstanding provisions in continuing law, if a motion to correct an illegal sentence is filed while a direct appeal is pending, any change in the law that occurs during the pending direct appeal shall apply.

The bill also clarifies the current applicability of a retroactivity clause to previous amendments made to the section.

Transfer of SB 123 Provider Certification to Kansas Sentencing Commission

The bill transfers provider certification duties for certified drug abuse treatment programs for drug offenders or divertees from the Kansas Department of Corrections to the Kansas Sentencing Commission (Commission), by replacing all references to the Secretary of Corrections with the Commission in the relevant definitions and provisions. The bill also removes community correction officers from those who may conduct criminal risk-needs assessments for purposes of such programs and allows the Commission to establish a process for revoking certification of programs that do not meet the Commission's qualifications for certification.

Theft or Criminal Damage to Remote Service Units; SB 483

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

The term "remote service unit" has the same definition as in the Kansas Banking Code and specifically includes, but is not limited to, automated cash dispensing machines and automated teller machines (ATMs). The term is added to the definition of "value" contained in the theft statute. [*Note:* "Value" includes the cost to restore the site of the theft of a remote service unit to its condition at the time immediately prior to the theft. Continuing law in the theft statute provides various penalties based on the value of the property taken with intent to permanently deprive the owner of the of the possession, use, or benefit of the owner's property or services.]

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

Crime of Conducting a Pyramid Promotional Scheme; HB 2231

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

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

Driving Under the Influence; Operating an Aircraft Under the Influence; Diversions; Commercial Driver's Licenses; HB 2377

HB 2377 creates and amends law related to operating an aircraft under the influence, driving under the influence (DUI), diversions, and commercial driver's licenses.

Operating an Aircraft Under the Influence

The bill creates the crime of operating an aircraft under the influence, provides for testing related to the crime, and repeals previous statutes prohibiting the operation of aircraft under the influence of alcohol or drugs and providing for related testing.

Definition and Penalties

The bill defines "operating an aircraft under the influence" as operating or attempting to operate any aircraft within Kansas while:

- The alcohol concentration in the person's blood or breath, as shown by any competent evidence, including other competent evidence, is 0.04 or more;
- The alcohol concentration in the person's blood or breath, as measured within four hours of the time of operating or attempting to operate an aircraft, is 0.04 or more;
- Under the influence of alcohol to a degree that renders the person incapable of safely operating an aircraft;
- Under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely operating an aircraft; or
- Under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely operating an aircraft.

The offense is a class A nonperson misdemeanor, unless it occurs while the person convicted is prohibited from operating an aircraft by a court order pursuant to the bill or because the person's pilot license is revoked or suspended by order of the Federal Aviation

Administration for a prior alcohol or drug-related conviction, in which case it is a severity level 6 nonperson felony.

For misdemeanor offenses, the following provisions apply:

- On a first conviction, the person convicted shall be sentenced to no less than 48 consecutive hours nor more than 6 months' imprisonment or, in the court's discretion, 100 hours of public service, and fined not less than $750; and

- On a second or subsequent conviction, the person convicted shall be sentenced to no less than 90 days nor more than 1 year's imprisonment and fined not less than $1,250, and the following conditions would apply:

    - As a condition of any probation granted, the person must serve at least 120 hours of confinement, including at least 48 hours' imprisonment. The remainder may be served by a combination of imprisonment, work release (if the work release program requires the person to return to confinement at the end of each day), or a house arrest program;

    - The person will receive hour-for-hour credit for time served in work release or house arrest until the minimum 120 hours' confinement is met. If required to serve more than 120 hours' confinement, the person will receive day-for-day credit for time served once the minimum 120 hours' confinement is met, unless otherwise ordered by the court; and

    - When in work release, the person will only be given credit for time served in confinement at the end of and continuing to the beginning of the person's work day. When under house arrest, the person will be monitored by an electronic monitoring device verifying the person's location, and the person may only be given credit for the time served within the boundaries of the person's residence.

For felony offenses, the following provisions apply:

- As a condition of any probation granted, the person shall be required to serve at least 30 days of confinement, including at least 48 consecutive hours' imprisonment. The remainder may be served by a combination of imprisonment, work release (if the work release program requires the person to return to confinement at the end of each day), or a house arrest program;

- The person will receive hour-for-hour credit for time served in work release or house arrest for the first 240 hours of confinement so served and will then receive day-for-day credit for time so served, unless otherwise ordered by the court; and

- When in work release, the person will only be given credit for time served in confinement at the end of and continuing to the beginning of the person's work day. When under house arrest, the person will be monitored by an electronic monitoring device verifying the person's location, and the person may only be given credit for the time served within the boundaries of the person's residence.

As part of the judgment of conviction, the court must order the person convicted not to operate an aircraft for any purposes for six months from the date of final discharge from the county jail, or the date of payment or satisfaction of a fine, whichever is later, or one year from such date on a second conviction. If the court suspends the sentence and places the person on probation, the court must order as a condition of probation that the person not operate an aircraft for any purpose for a period of 30 days from the date of the order on a first conviction or 60 days from the date of the order on a second conviction.

In determining the number of occurrences of the offense, a conviction will include entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging commission of operating an aircraft under the influence, and it will be irrelevant whether an offense occurred before or after conviction or diversion for a previous offense.

If a person is charged with a violation of the offense involving drugs, the fact that the person is or has been entitled to use the drug under Kansas law shall not constitute a defense against the charge.

Related Testing Provisions

The bill authorizes a request to a person operating or attempting to operate an aircraft in Kansas to submit to one or more tests of the person's blood, breath, urine, or other bodily substance to determine the presence of alcohol or drugs, administered at the direction of a law enforcement officer. The procedural requirements and related provisions reflect previous law for such testing for the crimes being repealed by the bill or in the context of DUI offenses, except for certain oral and written notice requirements in the DUI procedure.

Similarly, the bill includes provisions allowing a law enforcement officer to request a person operating or attempting to operate an aircraft in Kansas to submit to a preliminary screening of the person's breath or oral fluid, or both, if the officer has reasonable suspicion to believe the person has been operating or attempting to operate an aircraft while under the influence of alcohol, drugs, or a combination of both. The procedural requirements and related provisions reflect continuing law for such preliminary screenings in the DUI context.

The bill adds references to the testing provisions for this crime to continuing references to DUI testing provisions in the following statutory locations:

- In the Kansas Code of Criminal Procedure, regarding admissibility in any hearing or trial;
- In the Kansas Rules of Evidence, regarding the physician-patient privilege;
- In a statute allowing the Secretary of Health and Environment to adopt rules and regulations regarding approved preliminary screening devices; and
- In a statute authorizing the Director of the Kansas Bureau of Investigation to adopt rules and regulations regarding a list of preliminary screening devices approved for testing of oral fluid.

DUI, Diversions, and Commercial Driver's Licenses

The bill creates and amends law related to DUI and driving a commercial motor vehicle under the influence (commercial DUI). The bill also makes additional amendments regarding diversions and commercial driver's licenses (CDLs).

Ignition Interlock

The bill creates and amends law related to ignition interlock devices (IIDs), restrictions, and costs.

Reinstatement of driver's license. The bill creates law allowing a person whose license is restricted to operating only a vehicle with an IID and who meets the conditions detailed below to request reinstatement of the person's driver's license by submitting a request to the Division of Vehicles (Division), Kansas Department of Revenue (KDOR), in a form and manner prescribed by the Division. The Division must approve such request if all of the following conditions are met:

- The person's IID restriction period has been extended at least five years, not including any period of incarceration, beyond the initial IID period required by law due to the person's failure to provide the Division with proof of completion of the IID program;

- During the person's IID restriction period and any extension, the person has not had an alcohol or drug-related conviction or occurrence and has not been convicted of an IID circumvention offense in Kansas or any other jurisdiction;

- During the person's IID restriction period and any extension, the person has not been convicted of transportation of liquor in opened containers, purchase or consumption of alcohol by a minor, any offense listed in the statute defining a "habitual violator," or two or more moving traffic violations committed on separate occasions; and the person's driving privileges have not been revoked, suspended, canceled, or withdrawn due to another action by the Division or a court; and

- At the time of submitting the request, the person does not have any pending charges or proceedings involving any of the above violations.

Transfer of ignition interlock oversight. The bill transfers oversight of state certification of IID manufacturers and service providers from the KDOR to the Kansas Highway Patrol (KHP).

The bill transfers:

- Provisions regarding use of state moneys credited to the DUI-IID Designation Fund from a $10 fee paid for a driver's license with ignition interlock designation) to fund administration and oversight of state-certified IID manufacturers and their service providers;

- Provisions regarding IID approval by the KHP; and

- Authority for adopting rules and regulations regarding approval of IIDs, calibration and maintenance of IIDs, ensuring each approved IID manufacturer provides a reasonable statewide service network for calibration and maintenance of the devices, and participant requirements for proper use and maintenance of IIDs to the superintendent of the KHP.

The bill deems current rules and regulations on this subject to be rules and regulations of the superintendent of the KHP.

Ignition interlock device program completion. The bill removes a 90-day waiting period to apply for IID and various restrictions on driving with an IID and adds the following required conditions for a person to complete the IID program:

- The person must have no more than two standard violations and no serious violation in the 90 consecutive days prior to application for reinstatement; and

- The application must occur upon or after expiration of the applicable ignition interlock period required by law.

The bill defines "standard violation" (which includes various breath alcohol concentration test failures or failure to execute or submit to retests), "serious violation" (tampering or circumventing the IID or blowing a high breath alcohol concentration during a rolling retest), and other relevant terms.

Reduced ignition interlock device program costs. In a statute governing approval and maintenance of IIDs, the bill removes a provision requiring each IID manufacturer to provide a credit of at least two percent of the gross program revenues in Kansas as a credit for persons qualified to obtain an IID who are indigent as evidenced by qualification and eligibility for the federal food stamp program, and adds the provisions detailed below regarding reduced IID program costs (reduced costs).

Any person whose license is restricted to operating only a motor vehicle with an IID installed may request reduced costs by submitting a request to the Division in a form and manner prescribed by the Division. The Division must review each request to determine whether the person is eligible for reduced costs. A person will be eligible for reduced costs if the person's annual household income is less than or equal to 150 percent of the federal poverty level, as defined by the bill; if the person is eligible for the food assistance, child care subsidy, or cash assistance program pursuant to KSA 39-709; or if the person is currently eligible for the Low Income Energy Assistance Program (LIEAP) as determined by the Department for Children and Families.

If the Division determines the person is eligible for reduced costs, the person must pay 50 percent of the program costs, and the manufacturer must adjust its charges accordingly.

The bill also amends this section to require the Secretary of Revenue (Secretary) to adopt rules and regulations regarding the requirements and guidelines for receiving reduced

costs prior to March 1, 2023. Additionally, the bill reorganizes some provisions within the section.

DUI under the age of 21; IID restriction period. The bill amends the offense of DUI under the age of 21 to reduce the required IID restriction period for a first offense with a breath or blood alcohol test result of 0.02 or greater but less than 0.08 from 330 to 180 days.

Commercial DUI; Commercial Driver's Licenses

The bill amends law regarding commercial DUI and CDLs.

Charges and penalties. The bill clarifies that continuing limits on plea bargains for commercial DUI shall not be construed to prohibit an amendment or dismissal of any charge where the admissible evidence is not sufficient to support a conviction beyond a reasonable doubt on such charge.

The bill amends the penalties for a first conviction of commercial DUI to remove a minimum imprisonment or public service hours requirement.

The bill amends the penalties for a second conviction of commercial DUI to reorganize and clarify minimum confinement requirements. A requirement that the offender serve at least 48 hours of imprisonment is modified to remove requirements that this period be served consecutively and at the beginning of the overall period of confinement. The bill specifies that an offender shall receive hour-for-hour credit in work release or house arrest for the minimum 120 hours of confinement required by the section and will then receive day-for-day credit for any additional confinement imposed, unless otherwise ordered by the court.

The bill increases the penalty for a third or subsequent conviction of commercial DUI from a non-grid, nonperson felony to a severity level 6 nonperson felony, and reorganizes and standardizes minimum confinement requirements, setting the required minimum confinement as 30 days. The bill specifies that an offender shall receive hour-for-hour credit in work release or house arrest for the first 240 hours of confinement required by these provisions and will then receive day-for-day credit for subsequent confinement, unless otherwise ordered by the court. [*Note:* Assigning the offense a severity level places it on the sentencing guidelines grid and makes it subject to the incarceration periods and associated provisions of the sentencing guidelines.]

The bill removes postrelease supervision provisions that could conflict with the general postrelease supervision conditions that will now apply to the offense as a severity level 6 nonperson felony.

The bill gives a court discretion to waive any portion of a fine imposed for commercial DUI, except for $250 required to be remitted to the State Treasurer and credited to the Community Correction Supervision Fund upon a showing the offender successfully completed court-ordered education or treatment.

Lifetime disqualification and other CDL amendments. The bill amends the statute governing disqualification from driving a commercial motor vehicle to specify that a continuing provision for lifetime disqualification upon a second or subsequent occurrence of certain specific

offenses, test refusals, or test failures (second offense lifetime disqualification) applies to occurrences arising from two or more separate incidents occurring on or after July 1, 2003.

If a person is disqualified for life under this provision, and at least one of the disqualifying incidents occurred prior to July 1, 2003, the bill will allow the person to apply to the Secretary for review of the incidents and modification of the disqualification. The bill requires the Secretary to adopt rules and regulations prior to March 1, 2023, establishing guidelines, including conditions, to administer this provision.

The bill replaces a provision allowing the Secretary to adopt rules and regulations establishing guidelines under which a second offense lifetime disqualification may be reduced to a period of not less than ten years with a provision requiring any person with a second offense lifetime disqualification who seeks to have commercial driving privileges restored after ten years of disqualification to apply in writing to the Division.

The bill requires the Division to restore the person's commercial driving privileges if the Division determines:

- None of the occurrences leading to lifetime disqualification included DUI or commercial DUI;
- The person has not had an occurrence of certain specific offenses, test refusal, or test failure during the 10-year period preceding application;
- The person has had no alcohol- or drug-related convictions during the 10-year period preceding the application;
- The person has no pending alcohol- or drug-related criminal charges;
- The person has had no convictions for violations that occurred while operating a commercial motor vehicle during the 10-year period preceding application;
- The person has successfully completed an alcohol or drug treatment or comparable program that meets or exceeds the minimum standards approved by the Kansas Department for Aging and Disability Services if any of the disqualifying offenses were drug or alcohol related;
- The person is no longer a threat to the public safety of Kansas. The Division may request, and the person would be required to provide, any additional information or documentation the Division deems necessary to determine the person's fitness for relicensure;
- The person is otherwise eligible for licensure; and
- The person has not previously been restored to commercial motor vehicle privileges following a prior 10-year minimum disqualification.

The bill requires the person to provide a copy of the person's closed criminal history from any jurisdiction to the Division, for purposes of verifying the prior 10-year alcohol and drug history.

If the Division finds the person is eligible for restoration to commercial driving status, the bill requires the person to complete the written and driving skills examinations before a CDL is issued.

If the person is found ineligible, the Division must notify the person of such findings by certified mail and continue the denial of commercial driving privilege until such ineligibility has been disproven to the Division's satisfaction.

Any person who previously had commercial motor vehicle privileges restored pursuant to the statute will not be eligible to apply for restoration if the person receives another lifetime disqualification.

Any person aggrieved by the decision of the Division may appeal for review in accordance with the Kansas Judicial Review Act.

The bill requires the Secretary to adopt rules and regulations prior to March 1, 2023, necessary to administer the new procedure for restoration of commercial driving privileges.

The bill adds a separate lifetime disqualification provision for any person who uses a commercial motor vehicle in the commission of a felony involving an act or practice of severe forms of trafficking in persons, as defined in the provision.

The bill increases the minimum disqualification period for operating a commercial motor vehicle in violation of an out-of-service order:

- From 90 days to 180 days for a first violation; and

- From one year to two years if the person has one prior violation in a separate incident within the ten years immediately preceding the current violation.

Motorized Bicycles

In the statute requiring drivers to have a valid driver's license, the bill removes a provision allowing the Division to issue a class C license valid only for the operation of motorized bicycles to persons who have had their driving privileges suspended for an offense other than commercial DUI or a second or subsequent DUI, complete a mandatory suspension period for DUI-related offenses, and submit an application and $40 nonrefundable application fee. The bill removes a corresponding provision regarding the disposition of the application fee.

The bill specifies the continuing penalty of a class B misdemeanor for violations of the section is a nonperson misdemeanor.

DUI Charges and Penalties

The bill clarifies that continuing limits on plea bargains for DUI shall not be construed to prohibit an amendment or dismissal of any charge where the admissible evidence is not sufficient to support a conviction beyond a reasonable doubt on such charge.

The bill amends the penalties for a first conviction of DUI to remove a minimum imprisonment or public service hours requirement.

The bill amends the penalties for a second conviction of DUI to reorganize and clarify minimum confinement requirements. A requirement that the offender serve at least 48 hours of imprisonment is modified to remove requirements that this period be served consecutively and at the beginning of the overall period of confinement. The bill specifies that an offender shall receive hour-for-hour credit in work release or house arrest for the minimum 120 hours of confinement required by the section and will then receive day-for-day credit for any additional confinement, unless otherwise ordered by the court.

The bill increases the penalty for a third conviction if the person has a prior conviction within the preceding 10 years (not including any period of incarceration) or a fourth or subsequent conviction of DUI from a non-grid, nonperson felony to a severity level 6 nonperson felony, and accordingly removes specific imprisonment and fine requirements. [*Note:* Assigning the offense a severity level places it on the sentencing guidelines grid and makes it subject to the incarceration periods and associated provisions of the sentencing guidelines.] The bill also amends provisions regarding imprisonment at a state facility for the felony offense and related responsibilities of a sheriff to reflect the amendment making the penalty a sentencing guidelines offense, rather than a non-grid felony. Additionally, the bill removes the felony offense from postrelease supervision provisions that could conflict with the general postrelease supervision conditions that will now apply to the offense as a felony on the sentencing grid.

The bill amends the penalties for a third conviction of DUI, a third conviction of DUI with a prior conviction within the preceding 10 years, and a fourth or subsequent conviction to reorganize and standardize minimum confinement requirements, setting the required minimum confinement as 30 days. The bill specifies that an offender shall receive hour-for-hour credit in work release or house arrest for the first 240 hours of confinement required by these provisions and will then receive day-for-day credit for subsequent confinement, unless otherwise ordered by the court.

The bill gives a court discretion to waive any portion of a fine imposed for DUI, except for $250 required to be remitted to the State Treasurer and credited to the Community Correction Supervision Fund, upon a showing the offender successfully completed court-ordered education or treatment.

Diversion

The bill amends statutes governing consideration of diversion by city attorneys and county or district attorneys to specify a diversion agreement shall not be entered into on a complaint or traffic citation alleging a violation of the statutes governing automobiles and other vehicles (or of ordinances prohibiting the same acts), if the defendant was a commercial driver's license holder at the time of the violation or at any subsequent time prior to being considered for

diversion. [*Note:* This reflects a similar provision continuing in the Kansas Uniform Commercial Driver's License Act.]

These statutes also are amended to allow diversion for an alleged alcohol related offense involving a motor vehicle accident or collision that resulted in personal injury only to the defendant.

The city attorney diversion statute is amended to clarify an "alcohol related offense," as used in this statute, is a non-commercial DUI offense.

A statute prohibiting certain diversions for CDL holders is amended to prohibit a prosecuting attorney from masking or deferring imposition of judgment or allowing an individual to enter into a diversion that would prevent a commercial learner's permit or CDL holder's conviction from appearing on the Commercial Driver's License Information System (CDLIS) driver record of any violation of a state or local traffic control law that occurred in any type of motor vehicle, and this provision will apply regardless of whether the driver was convicted for an offense committed in the state where the driver is licensed or in any other state. The bill states this provision would not apply to parking, vehicle weight, or vehicle defect violations.

Sentencing Statute Amendments

The bill amends sentencing statutes in the Kansas Criminal Code to reflect the sentencing changes made in the DUI statutes.

Definition of "Possession"; Elements and Severity Levels for Crime of Abuse of a Child; Appearance Bonds; Witness Testimony at Preliminary Examination; Competency Proceedings and Commitment of Certain Persons; HB 2508

HB 2508 amends law in the Kansas Criminal Code concerning the definition of "possession" and the elements of and severity levels for the crime of abuse of a child. It also amends law in the Kansas Code of Criminal Procedure concerning forfeiture of appearance bonds, witness testimony at preliminary examinations, and competency proceedings and commitment of certain persons.

Definition of "Possession"

The bill amends the definition of "possession" to mean "knowingly having joint or exclusive control over an item, or knowingly keeping some item in a place where the person has some measure of access and right of control."

"Possession" had been defined as "having joint or exclusive control over an item with knowledge of or intent to have such control or knowingly keeping some item in a place where the person has some measure of access and right of control."

The bill removes the definition of "possession" in a Kansas Criminal Code definitions section pertaining specifically to drug crimes.

Elements and Severity Levels for Crime of Abuse of a Child

The bill replaces the elements of the crime of abuse of a child with language stating abuse of a child is committing any of the following acts against a child under 18 years of age:

- Knowingly torturing, cruelly beating, cruelly striking, or cruelly kicking (this conduct is a severity level 5 person felony if the child is at least 6 years of age but less than 18 years of age and a severity level 3 person felony if the child is under 6 years of age);

- Knowingly inflicting cruel and inhuman corporal punishment or knowingly using cruel and inhuman physical restraint, including caging or confining the child in a space not designated for human habitation or binding the child in a way that is not medically necessary (this conduct is a severity level 5 person felony if the child is at least 6 years of age but less than 18 years of age and a severity level 3 person felony if the child is under 6 years of age);

- Recklessly causing great bodily harm, abusive head trauma, permanent disability, or disfigurement (this conduct is a severity level 4 person felony);

- Knowingly causing great bodily harm, abusive head trauma, permanent disability, or disfigurement (this conduct is a severity level 3 person felony);

- Knowingly inflicting cruel and inhuman corporal punishment with a deadly weapon (this conduct is a severity level 3 person felony); or

- Knowingly impeding the normal breathing or circulation of the blood by applying pressure on the throat, neck, or chest of the child or by blocking the nose or mouth of the child in a manner whereby death or great bodily harm may be inflicted (this conduct is a severity level 3 person felony).

Forfeiture of Appearance Bonds

The bill requires, if a defendant fails to appear as directed by the court and guaranteed by an appearance bond, the court in which the bond is deposited to issue an arrest warrant for a defendant. If the defendant is charged with a felony offense, the bill requires the sheriff to enter the warrant into the National Crime Information Center's (NCIC) index within 14 days of issuance and to notify the court if the warrant is not entered into the index.

The bill adds the following to the circumstances under which a court must direct a forfeiture to be set aside:

- The arrest warrant required by the above provision was not issued within 14 days of the forfeiture;

- A warrant that is required to be entered into the NCIC index pursuant to the above provision was not entered within 14 days of issuance, unless there is good cause shown for such failure to enter; or

- The defendant has been arrested outside of Kansas, and the prosecuting attorney has declined to proceed with extradition.

The bill clarifies that a court may impose conditions when it is required to direct that a forfeiture be set aside.

The bill reorganizes some provisions within the statute.

Witness Testimony at Preliminary Examination

The bill allows, at a preliminary examination, the defendant and the state to present witness testimony through a two-way electronic audio-video communication device.

Competency Proceedings and Commitment of Certain Persons

The bill amends provisions in the Kansas Code of Criminal Procedure regarding competency of defendants to stand trial, proceedings to determine competency, and commitment of incompetent defendants, persons found not guilty by reason of mental disease or defect, and convicted defendants.

Appropriate State, County, or Private Institution or Facility

The bill defines "appropriate state, county, or private institution or facility" (appropriate facility) to mean a facility with sufficient resources, staffing, and space to conduct the evaluation or restoration treatment of the defendant. The term does not include a jail or correctional facility as a location where evaluation and restoration treatment services are provided unless the administrative head or law enforcement official in charge of the jail or correctional facility agrees that the facility has the appropriate physical and care capabilities that such services may be provided by:

- The state security hospital or its agent or a state hospital or its agent;

- A qualified mental health professional, as defined in the Care and Treatment Act for Mentally Ill Persons, who is qualified by training and expertise to conduct competency restoration treatment;

- An individual who is qualified by training and experience to conduct competency evaluations and restoration treatment and is licensed by the Behavioral Sciences Regulatory Board; or

- A physician who is qualified by training and experience to conduct competency evaluations and restoration treatment and is licensed by the State Board of Healing Arts.

Proceedings to Determine Competency

The bill replaces language allowing a court to commit a defendant to the state security hospital or an appropriate facility for competency examination and report to the court with language allowing the court to order an evaluation to be completed by an appropriate facility to be conducted in person or by use of available electronic means while the defendant is in jail, at any secure location, or on pretrial release.

The bill replaces language allowing the court to designate certain appropriate clinics, centers, or facilities to conduct the examination with language allowing the court to designate an appropriate facility to conduct the examination and add "any secure location" as a place where the defendant may be located.

The bill reduces the minimum number of physicians or psychologists the court may appoint to examine the defendant from two to one and clarifies the qualifications of such physicians or psychologists.

The bill clarifies the procedure and time limitation for commitment of the defendant to an institution or facility for the examination, and requires, before the expiration of the 60-day evaluation period, the professional approved by the court to examine the defendant or, if the defendant is committed for inpatient examination, the chief medical officer or head of the appropriate institution or facility to certify to the court whether the defendant is competent to stand trial.

Evaluation and Treatment of Incompetent Defendant

The bill amends provisions requiring a defendant found incompetent to stand trial to be committed for evaluation and treatment to instead require such defendant to be ordered for evaluation and treatment, conducted on an outpatient or inpatient basis, by an appropriate facility. The bill states that evaluation or restorative treatment of a defendant shall not be conducted in a jail unless the administrative head or law enforcement official in charge of the jail agrees to such evaluation or restorative treatment being conducted in such jail.

The bill allows an evaluation and treatment to be ordered to be conducted on an outpatient basis in person or by use of available electronic means while the defendant is in jail, at any secure location, on pretrial release, or in any other appropriate setting.

The bill allows outpatient evaluation and treatment at an appropriate facility to be ordered to be conducted for a defendant charged with a misdemeanor offense. For a defendant charged with a felony offense, the bill allows an inpatient commitment to the state security hospital or its agent or a state hospital or its agent, or an outpatient commitment to such facilities or agents if the defendant meets screening criteria established by the state security hospital. In ordering an inpatient commitment, the court is required to consider the defendant's mental condition, behaviors, and the availability of outpatient evaluation and treatment options.

A provision requiring notification of the county or district attorney in the county where the criminal proceeding is pending, at the time of commitment, for the purpose of providing victim notification is moved and amended to standardize terms and reflect the new procedures provided by the bill.

A provision requiring the chief medical officer of the institution to certify to the court within 90 days of commitment whether the defendant has a substantial probability of attaining competency to stand trial in the foreseeable future is amended to reflect the new evaluation and treatment options provided by the bill. The bill requires the court to set a hearing within 21 days after such certification, unless exceptional circumstances warrant delay, for the purpose of determining competency.

If such probability does exist, the bill expands the places the court may order the defendant to remain to include jail, a secure location, on pretrial release, or at an appropriate setting. If such probability does not exist, the bill requires the prosecuting attorney where the charges are filed (if the evaluation and treatment was not provided by the state security hospital or its agent or a state hospital or its agent) , or the prosecuting attorney or the Secretary for Aging and Disability Services (if the evaluation and treatment was provided by the state security hospital or its agent or a state hospital or its agent) , to commence involuntary commitment proceedings, and requires such proceedings to commence within 21 days of receipt of the certification, unless exceptional circumstances warrant delay. The bill implements similar requirements if a defendant, who was found to have had a substantial probability of attaining competency, has not attained competency within six months from the date of the original commitment. [*Note:* The certification and involuntary commitment procedures are repeated throughout the bill for each of the new evaluation and treatment options. Although the language appears to be entirely new each time, it reflects the procedures outlined above, modified slightly for each evaluation and treatment option.]

The bill requires, rather than allows, a defendant committed to a public institution or facility under these provisions who is thereafter sentenced for the crime charged at the time of commitment to be credited with all of the time during which the defendant was committed and confined.

If the defendant is ordered or has met criteria to receive an outpatient evaluation and treatment, and the chief medical officer of the appropriate institution or facility determines that the defendant's mental health condition or behaviors warrant terminating outpatient treatment services and commencing inpatient evaluation and treatment, the chief medical officer or head of the facility or institution is required to provide a report to the court within ten days after outpatient treatment is terminated. The bill provides content and procedural requirements for such report, including procedures for the court to order the sheriff of the county where the charges are filed to transport the defendant to the state security hospital or its agent or a state hospital or its agent for inpatient services.

The bill requires the court, prosecuting attorney, defense counsel, and chief medical officer of any institution or the head of any facility where the defendant is receiving outpatient services to provide requested documentation to the state security hospital or its agent or the state hospital or its agent for the purpose of managing inpatient admission.

Psychotropic Medications

The bill allows, notwithstanding a statute providing certain rights to persons in the custody of the Secretary for Aging and Disability Services, psychotropic medications to be prescribed for any defendant who is ordered or has met the criteria to receive evaluation and treatment on an inpatient or outpatient basis at an appropriate facility. The bill outlines requirements for the prescription, ordering, administration, and review of such medications.

The bill prohibits such medications from being administered to a defendant for two days prior to and during any hearing, if such medications alter the defendant's mental state to adversely affect the defendant's judgment or hamper the defendant in preparing for or participating in the hearing. Prior to the hearing, the bill requires a report of all such medications or other treatment that has been administered to the defendant, and a copy of any written consent signed by the defendant, to be submitted to the court.

The bill allows the defendant's counsel to preliminarily examine the attending physician regarding the administration of any medication to the defendant within two days of the hearing and the effect that medication may have had on the defendant's judgment or ability to prepare for or participate in the hearing. If the court determines that medication or other treatment has been administered that adversely affects the defendant's judgment or ability to prepare for or participate in the hearing, the court may grant the defendant a reasonable continuance to allow the defendant to be better able to prepare for or participate in the hearing. The bill required the court to order that such medication or other treatment be discontinued until the conclusion of the hearing, unless the court finds that such medication or other treatment is necessary to sustain the defendant's life or to protect the defendant or others, in which case the court is required to order the hearing to proceed.

The bill requires, if a defendant who is charged with a felony is receiving treatment under this section and is not deemed a present danger to self or others objects to taking any medication prescribed for the purpose of restoring the defendant to competency, the defendant's objection to be recorded in the defendant's medical record and written notice of such objection to be forwarded to the medical director of the treatment institution or facility or the director's designee and to the court where the criminal charges are pending. The bill permits the medication to be administered over the defendant's objection only if the court finds that:

- The medication is substantially unlikely to have side effects that may undermine the fairness of the trial;
- The medication is medically appropriate;
- Less intrusive alternatives have been considered;
- The medication is necessary to advance significantly important governmental trial interests; and
- The administrative head or law enforcement official in charge of the jail has agreed to having the medication administered over the defendant's objection in the jail.

The bill prohibits the administration of any experimental medication without the consent of the defendant or defendant's legal guardian.

Commitment of Persons Found Not Guilty By Reason of Mental Disease or Defect

The bill amends the statute governing commitment of persons found not guilty by reason of mental disease or defect to allow commitment to an appropriate secure facility in addition to the state security hospital as permitted under continuing law. Accordingly, the bill amends various procedural provisions to incorporate the licensed psychologist at or head of such appropriate secure facility. The bill amends hearing timing requirements in this statute to allow delay if the court finds that such delay is warranted by exceptional circumstances.

Commitment of Convicted Defendants

The bill amends a statute allowing commitment for mental examination, evaluation, and report of a convicted defendant as part of the presentence investigation, to provide that all such commitments shall be to the state security hospital. The bill removes language stating such commitment may also be to a suitable local mental health facility or to a private hospital.

Other Amendments

Throughout the bill, references to "county or district attorney" are changed to "prosecuting attorney."

Crime Victims Compensation Board—Awards to Victims; HB 2574

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

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

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

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

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

DISABILITY RIGHTS

Statutory Reference to Hearing Impairment; Prohibition on Blindness as a Determining Factor in Parental Rights; SB 343

SB 343 prohibits blindness from being a determinant factor for denial or restriction of legal custody, residency, or parenting time when it is determined to otherwise be in the best interest of a child. The bill makes certain findings and declarations of the Legislature with regard to parenting by blind individuals.

The bill also replaces statutory references to "hearing impairment" and similar terms with "hard of hearing," "hearing loss," or "deaf."

Prohibition on Blindness as a Determining Factor in Parental Rights

Definitions

The bill defines the following terms:

- "Blind" or "blindness" means a central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. The term "blind" or "blindness" includes any degenerative condition that reasonably can be expected to result in blindness;

- "Family foster home" means a child care facility that is a private residence, including any adjacent grounds, where a person provides care for 24 hours per day for one or more children in foster care and for which a license is required under statute; and

- "Supportive parenting services" means services including, but not limited to, services, aids, and supports that may assist a parent or prospective parent who is blind in the effective use of non-visual techniques and other alternative methods to enable the parent or prospective parent to discharge parental responsibilities as successfully as a parent who is not blind.

Legal Custody, Residency, or Parenting Time

The bill provides that, in any action brought under the Kansas Parentage Act or law related to dissolution of marriage, a parent's blindness does not serve as a basis for denial or restriction of legal custody, residency, or parenting time when such legal custody, residency, or parenting time is determined to otherwise be in the best interest of the child.

The bill requires, if a parent's blindness is alleged to not be in the best interests of a child, the party asserting such an allegation is required to prove by clear and convincing evidence that the parent's blindness is not in the bests interests of the child. The bill provides, if the party asserting the allegation satisfies the burden of proof, the parent who is blind has an

opportunity to present evidence that, with the implementation of supportive parenting services, placement with such parent is in the best interests of the child.

The bill allows the court to issue an order requiring supportive parenting services to be implemented and allows the parties to request the court review the need for continuing such supportive parenting services after a reasonable period of time. The bill requires a court, if it denies or otherwise restricts a request for legal custody by a parent who is blind, to make specific findings of fact stating the basis for its decision, including reasons why the provision of supportive parenting services is not a reasonable accommodation required to prevent such denial or restriction.

The bill provides that, in any action brought under the Kansas Adoption and Relinquishment Act, an individual's blindness does not serve as a basis for the denial of such prospective parent's participation in any adoption or, in any action brought under the Act for Obtaining a Guardian or a Conservator, or Both (KSA 59-3050), appointment as a guardian when such appointment is determined to be in the best interest of the child.

The bill also provides that an individual's blindness does not serve as the basis for the denial or restriction of licensure as a family foster home.

The bill provides, in any action brought under the Revised Kansas Code for Care of Children, that an individual's blindness does not serve as the basis for an order of temporary custody, adjudication, disposition, finding of unfitness, or termination of parental rights. The bill requires the court, if it issues such an adverse order, to make specific findings of fact stating the basis for its decision, including reasons why the provision of supportive parenting services is not a reasonable preventative accommodation.

Achieving a Better Life Experience Savings Program; HB 2490

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

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

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

The bill amends the following definitions:

- "Account owner" is amended to add a person authorized by the State Treasurer through procedures established by the State Treasurer to those who may act on behalf of a designated beneficiary. [*Note:* Current law allows only a conservator or guardian to be appointed as an account owner for a designated beneficiary.];

- "Designated beneficiary" is amended to also mean a person authorized by the State Treasurer pursuant to KSA 75-653; and

- "Eligible individual" means the same as defined in the federal Internal Revenue Code.

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

ECONOMIC DEVELOPMENT

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

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

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

Definitions

The bill defines terms used in the Act.

Qualified Firm

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

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

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

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

Qualified Supplier

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

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

Qualified Business Facility

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

- The facility is for use by a qualified firm in operation of a revenue-producing enterprise; and

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

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

Qualified Business Facility Employee

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

Qualified Business Facility Investment or Qualified Investment

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

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

Other Definitions

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

Attracting Powerful Economic Expansion Program

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

The APEX Program provides tax incentives to qualified firms who agree to invest at least $1.0 billion in Kansas within a five-year period and to no more than five of the qualified firm's qualified suppliers.

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

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

Qualified Firms

Requirements

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

- Submit an application to the Secretary, in the form of and with the information required by the Secretary;
- If requested by the Secretary, submit a certificate of intent to invest which, if required by the Secretary, must contain a date investment would commence;
- Commit to a qualified business investment of at least $1.0 billion in a qualified business facility to be completed within five years;
- Complete the project and commence commercial operations within five years;
- Enter into a binding agreement with the Secretary that includes the commitments required by the bill;
- Obtain and submit a bond to the Secretary in the amount required to cover primary construction of the building or buildings for the qualified business facility if the qualifying firm or qualifying business facility does not meet the minimum investment grade rating determined by the Secretary; and
- Commit to repayment of any benefit or benefits received connected to or associated with a term or condition of the agreement that has been breached, as determined by the Secretary, and the forfeiture of any such earned benefits and

the suspension or cessation of future benefits for as long as the breach is not corrected. The bill requires the Secretary to report any material breach to the State Finance Council within 14 days of becoming aware of the breach.

Incentives

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

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

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

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

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

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

Qualified Suppliers Eligibility and Incentives

Requirements

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

- Submit an application to the Secretary in the form and manner designated by the Secretary, and including all information requested by the Secretary;
- Submit a certificate of intent to invest in a qualified business facility which includes when investment will begin;
- Make more than $10 million of sales to the qualified firm within the taxable year for which benefits are being sought, unless this requirement is waived by the Secretary due to “exceptional circumstances”; and
- Provide information to the Secretary such as, but not limited to:
    - Evidence establishing sales of more than $10 million to the qualified firm;
    - Date when operations at the qualified business facility began; and
    - Sales to the qualified business facility by the qualified supplier.

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

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

Incentives

Qualified suppliers are eligible for the following incentives:

- Investment tax credit;
- Partial retention of employee withholding tax;

- Reimbursement of a percentage of eligible employee training and education expenses;

- Partial real property tax exemption for qualified business facilities; and

- Sales tax exemption for construction materials used in the qualified business facility.

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

Conditions on Qualified Firms and Qualified Suppliers

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

- Promoting Employment Across Kansas (PEAK) Program;
- High Performance Incentive Program (HPIP);
- Kansas Industrial Training (KIT) Program;
- Kansas Industrial Retraining (KIR) Program; or
- Any other economic development program or fund administered by the Secretary of Commerce.

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

- Information required for publication in the Economic Development Incentive Program Database as prescribed by law;

- Information reasonably required for the Secretary's report on the APEX Program to the Governor and specified committees of the Legislature;

- Information required by the Secretary of Commerce for the Secretary's annual review or by the Secretary of Revenue that pertain to the qualified firm's eligibility for benefits; and

- Reasonable access by the Secretary or Department of Commerce staff to the qualified business facility during business hours.

The bill requires the Secretary of Commerce to conduct an annual review of the activities of qualified firms and qualified suppliers to ensure compliance with the provisions of the Act, rules and regulations adopted by the Secretary, and the agreement entered into by the qualified

business. Upon review, the bill directs the Secretary of Commerce to certify to the Secretary of Revenue that the qualified firm is eligible for benefits.

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

Investment Tax Credit

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

Incentive

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

The bill specifies the credit will be earned each taxable year based upon the amount of the qualified investment made within the taxable year. For qualified firms, the credit can be up to 15.0 percent of the qualified investment within the taxable year, as determined by the Secretary of Commerce, and will be divided into ten equal installments to be claimed in ten successive tax years. The bill permits the State Finance Council to approve installments or portions of installments to be in advance of the ten successive years. Such approval requires an affirmative vote of the Governor and a majority of the legislative members of the State Finance Council. For qualified suppliers, the credits are 5.0 percent for the first $50 million in qualified investment and an additional 1.0 percent for each additional $10 million in qualified investment, up to a maximum of $100 million.

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

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

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

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

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

Conditions

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

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

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

- Actual jobs created as a direct result of the expenditures on which such credit claims are based;
- Additional payroll generated as a direct result of the expenditures on which such credit claim is based;
- Actual jobs retained as a direct result of the expenditures on which such credit claim is based;
- Additional revenue generated as a direct result of the expenditures on which such credit claim is based;
- Additional sales generated as a direct result of the expenditures on which such credit claim is based;

- Total employment and payroll at the end of the tax year in which the credits are claimed; and

- Further information as required by the Secretary of Revenue.

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

Partial Retention of Payroll Withholding Tax

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

Incentive

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

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

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

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

Third-party Employer Eligibility

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

- Serve as the legal employer of the qualified supplier's employees providing service to the qualified supplier;

- Perform such services in Kansas; and

- Be subject to the Kansas Withholding and Declaration of Estimated Tax Act.

Agreement

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

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

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

Certification

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

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

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

Reimbursement of Total Payroll

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

Incentive

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

The bill limits the amount of the payroll reimbursement for each taxable year at 7.5 percent of the total payroll cost of the qualified firm in the taxable year for up to 10 successive years. The percentage of reimbursement and number of successive years are determined by

the Secretary. The Secretary is permitted to increase the percent of the total payroll cost to be reimbursed up to 10.0 percent with approval of the State Finance Council, which requires an affirmative vote of the Governor and the majority of the legislative members of the State Finance Council.

Eligibility

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

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

Requirements

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

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

Payment

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

Attracting Powerful Economic Expansion Payroll Incentive Fund

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

Reimbursement of Eligible Employee Training and Education Expenses

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

Incentive

Starting July 1, 2022, the bill authorizes a qualified firm or qualified supplier that meets the requirements of the Act and enters into an agreement with the Secretary of Commerce to be eligible for a reimbursement of up to 50.0 percent of training and education eligible expenses, of which travel expenses have a maximum allowance of $60 per day for meals and $150 per night for lodging, for the purpose of educating and training new employees. Each qualified firm is eligible for up to $5.0 million annually for up to five successive years, as determined by the Secretary. Each qualified supplier is eligible to receive up to $250,000 annually.

Qualified Firms Eligibility

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

Qualified Supplier Eligibility

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

Requirements

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

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

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

Payment

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

Attracting Powerful Economic Expansion New Employee Training and Education Fund

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

Sales Tax Exemption

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

Incentive

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

Eligibility

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

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

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

Conditions

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

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

and conditions of the agreement for incentives, the bill requires the amount of sales tax exempted to be repaid to the state.

Reporting Requirements

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

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

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

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

- The number of employees of the qualified firm and qualified supplier residing in Kansas and every other state.

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

Corporate Tax Rate Adjustment

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

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

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

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

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

Relocation Costs and Incentives

Under the bill, qualified firms are eligible for annual reimbursement of up to 50.0 percent of relocation incentives and expenses provided to incentivize employees who are not Kansas residents to relocate their primary residence to Kansas and become Kansas residents. Reimbursements are limited to $1.0 million per year per qualified firm and are permitted for up to 10 successive years. Reimbursements will be subject to appropriations and will be paid from the Attracting Powerful Economic Expansion Kansas Residency Incentive Fund.

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

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

Attracting Powerful Economic Expansion Kansas Residency Incentive Fund

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

Tax Amendments

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

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

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

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

EDUCATION

Vision Screenings and Interpreter Licensure; SB 62

SB 62 amends state standards for free school-administered vision screenings, establishes the Kansas Children's Vision Health and School Readiness Commission, authorizes the Kansas Commission for the Deaf and Hard of Hearing to adopt rules and regulations, establishes a sign language interpreter registration process, and provides guidelines for communication access services.

Interpreter Registration

The bill requires any person seeking to interpret in the state to be registered with the Kansas Commission for the Deaf and Hard of Hearing (CDHH) by submitting an application, as prescribed by the CDHH, and paying the registration fee. To be registered, the bill requires all applicants to:

- Have obtained a high school diploma or equivalent certificate;
- Be 18 years of age or older;
- Have no other record of disqualifying conduct as determined by the CDHH; and
- Have obtained a certification or other appropriate credential as determined by the CDHH.

Reciprocity Registration

The bill allows the CDHH to establish a reciprocity system where applicants licensed in another state, territory, or the District of Columbia may be registered if the CDHH deems the applicant to have substantially met the Kansas qualifications. Applicants seeking registration in this manner would be required to provide evidence and verification of their licensure or registration in their original state.

Temporary Registration

The bill allows the CDHH to provide temporary registration for nonresidents who are licensed or registered in their state of residence. The temporary registration allows the individual to interpret no more than 20 separate days in the state within a year.

Registration Expiration and Notification

Expiration of an interpreter's registration will be determined by the CDHH under its rules and regulations authority. The bill requires notice of renewal to be sent to all interpreters a minimum of 60 days prior to expiration of their registration. The bill also provides a 30-day grace period after the expiration of an interpreter's registration without incurring a late fee. Following

the grace period, the CDHH is authorized to charge a late fee not to exceed $200. The fee will be set in the CDHH's rules and regulations.

An interpreter whose registration has expired without submitting a renewal application could renew their registration upon payment of the late fee and submission of their evidence showing continuing education requirements have been met. The bill allows the CDHH to require additional testing, training, or education for interpreters seeking registration renewal after the 30-day grace period.

Continuing Education

The bill requires all registered interpreters to attend a minimum of 30 hours of continuing education programing within a 2-year period as a condition for registration renewal.

Fingerprinting and Background Checks

The bill authorizes the CDHH to require applicants for registration as interpreters to be fingerprinted and submit to both state and federal criminal history record checks. The CDHH is allowed to use the information garnered from this practice to determine an applicant's qualifications and fitness for registration as an interpreter.

The bill directs local and state law enforcement agencies to assist the CDHH in taking the fingerprints of applicants and may charge a fee for expenses incurred to the CDHH. The Kansas Bureau of Investigation is required to release all the applicant's adult convictions to the CDHH. The CDHH is allowed to fix and collect a fee in an amount equal to the cost of the fingerprinting and criminal history record check services provided.

Denial of Registration

The bill authorizes the CDHH to deny, condition, limit, revoke, or suspend registration of any individual who:

- Has been found incompetent or negligent in the practice of interpreting;
- Has been convicted of a felony offense or a misdemeanor against persons and is deemed not sufficiently rehabilitated by the CDHH;
- Submits an application containing false, misleading, or incomplete information;
- Fails or refuses to provide any information requested by the CDHH;
- Fails or refuses to pay required fees;
- Is currently listed on a child abuse or adult protective services registry and is deemed not sufficiently rehabilitated by the CDHH;
- Had a license, registration, or certificate to practice as an interpreter revoked, suspended, or limited or been subject of other disciplinary action by another state, territory, or the District of Columbia; or

- Had an application for such license, registration, or certificate denied by another state, territory, or the District of Columbia.

Proceedings

The bill requires all administrative and disciplinary proceedings regarding interpreter registration to be conducted in accordance with the Kansas Administrative Procedure Act and be subject to the Kansas Judicial Review Act.

Rules and Regulations

The bill requires the executive director of the CDHH (Director) and the CDHH to adopt rules and regulations regarding, but not limited to, the following:

- Fees;
- Categories of interpreter certification and endorsements;
- Continuing education requirements and programs for registered interpreters;
- Code of professional conduct;
- Supervision and mentorship requirements and programs;
- Suspension and revocation of interpreter registration; and
- Other matters deemed necessary by the Director to effectuate provisions of the bill.

Unlawful Acts

The bill makes it unlawful for persons not registered with the CDHH to:

- Practice as an interpreter;
- Hold out to the public the intention, authority, or skill to interpret;
- Provide video remote interpreting services; or
- Use a title or abbreviation to indicate one is an interpreter registered with the Commission.

The bill also deems the following actions by an individual to be unlawful:

- Causing or permitting a person to interpret in the state with the knowledge that such person is not registered with the CDHH;
- Representing a person as a registered interpreter when it is known or should be reasonably known such person is not registered;

- Holding out a person to the public, on behalf of such person, the intention, skill, or authority to interpret when it is known or should be reasonably known such person is not registered; and
- Accepting payment for securing an interpreter when the person provided is not registered.

The bill exempts the following individuals from the registration requirements in the bill:

- A person interpreting during a religious event;
- A person interpreting as a volunteer without compensation after receiving approval from the Director or CDHH;
- A person interpreting during an emergency until registered services can be obtained; or
- A student enrolled in and pursuing a degree or credential in interpreting or an interpreter training program or a provisional interpreter with a supervision plan overseen by the CDHH.

The bill authorizes the CDHH to bring action against individuals committing the aforementioned unlawful activities in a court of competent jurisdiction in order to seek an injunction against the individual.

Communication Access Services

The bill requires the CDHH to develop guidelines for the utilization of communication access services, communication access service providers, and interpreter service agencies. The Director may adopt rules and regulations for communication access services regarding, but not limited to:

- Fees;
- Determination of qualifications;
- Minimum standards of training;
- Registration;
- Code of professional conduct;
- Standards of equipment or technology;
- A system of statewide coordination; and
- Any other matter the Director deems necessary to effectuate this section of statute.

The bill authorizes the CDHH to carry out fingerprinting and state and federal criminal history checks for communication access service providers in the same manner as prescribed for interpreters. Local and state law enforcement is required to assist with fingerprinting and

would be permitted to charge a fee as reimbursement for expenses in the same manner as prescribed for interpreters.

The bill also allows the CDHH to use the information garnered from this practice to determine an applicant's qualifications and fitness for registration as a communication access service provider and charge a fee equal to the cost of delivering such services..

Fee Fund

The bill establishes the Commission for the Deaf and Hard of Hearing Registration Fee Fund (Fund). The bill provides provisions for the remittance of moneys to be deposited into the State Treasury and credited to the Fund.

Definitions

The bill defines the following terms:

- "Accredited nonpublic school" means all nonpublic elementary and secondary schools accredited by the State Board of Education;
- "Board of education" means the board of education of any school district;
- "Commission" means the CDHH;
- "Communication Access Services" means, but not be limited to the following;
    - Communication access real-time translation services;
    - Notetakers;
    - Open and closed captioning services;
    - Support service providers for the deaf-blind; and
    - Any other effective method of making aurally delivered information available to individuals who are deaf or had of hearing;
- "Communication Access Service Provider" means an individual who is trained to offer a communication access service to an individual who is deaf, hard of hearing, or has speech and language impairments;
- "Executive Director" means the executive director for the Kansas Commission for the deaf and hard of hearing;
- "IDEA part B" means all statewide programs providing special education and related services to children with disabilities aged three through five in accordance with 20 U.S.C. § 1411, and amendments thereto;
- "Interpreter" means an individual engaged in the practice of interpreting;
- "Interpreter Service Agency" means an entity that contracts with or employs registers interpreters in order to provide interpretation services for a fee;

- "Interpreting" means the translating or transliterating of either English concepts or communication modes for individuals who are deaf, hard of hearing, or have speech and language impairments;
- "School district" means any school district organized under the laws of this state;
- "Video Remote Interpreter" means an interpreter who engages in interpreting via a videoconferencing platform;
- "Video Remote Interpreting" means the process that allows deaf or hard of hearing individuals to communicate with hearing individuals at the same location through an interpreter utilizing a videoconferencing platform; and
- "Vision Screener" means any school nurse, or the nurse's designee, or other person who is trained to administer a vision screening test to students in the State of Kansas.

The bill also amends the definition of "basic vision screening" to mean an age-appropriate eye testing program for each child that is implemented according to the most recent edition of the Kansas vision screening requirements and guidelines and includes referrals for eye examinations and necessary follow-ups.

Frequency of Vision Screenings

The bill provides children with free basic vision screenings as follows:

- Annually for children with disabilities aged three through five years who are participating in IDEA part B programs;
- At least once each school year for students enrolled in kindergarten and each of the grades one through three, five, seven, and ten in a school district or an accredited nonpublic school; and
- Within the first year of admission for any student enrolled in a school district or an accredited nonpublic school.

Entity Responsible for Providing Vision Screenings

The bill requires the board of education of the school district in which a student is enrolled to provide basic vision screening to every student enrolled in such school district. The bill requires basic vision screening to be provided to every student enrolled in an accredited nonpublic school by either the accredited nonpublic school in which the student is enrolled or, upon request by the student's parent or guardian, by the board of education of the school district in which the student resides.

Performance and Reporting of Vision Screenings

The bill requires basic vision screening to be performed by a vision screener designated by the board of education or by an accredited nonpublic school. The bill requires vision screeners to follow the most recent state vision screening guidelines. The bill requires the

results of the screening and any necessary referral for an examination by an ophthalmologist or optometrist to be reported to the parents or guardians of the student and require any such referral to show no preference in favor of any ophthalmologist or optometrist.

Kansas Children's Vision Health and School Readiness Commission

Commission Membership and Reimbursement

The bill establishes an eight-member Kansas Children's Vision Health and School Readiness Commission (Commission) to ensure the implementation of the provisions of the bill, with membership appointed by the State Board of Education and composed of one member representing each of the following: optometrists, ophthalmologists, a health organization dedicated to preventing blindness, the State Department of Education, the Kansas Department of Health and Environment, school nurses, public health nurses, and school administrators. The bill requires the Commission members to serve without reimbursement for meeting expenses.

Duties of the Commission

The bill establishes the following duties of the Commission:

- Oversee the revision of state vision screening requirements and guidelines at least once every seven years;
- Provide standardized vision screening referral letters and eye professional examination reports as referenced in the Kansas vision screening requirements and guidelines;
- Identify state resources that assist in providing opportunities to offer free or low-cost eye exams for students who fail vision screenings and are unable to afford an examination on their own; and
- Establish a system to collect data from school health personnel concerning the results of the original screenings and referral outcomes, and issuing an annual report to the Secretary of Health and Environment and the Commissioner of Education.

Commission for the Deaf and Hard of Hearing

The bill amends the responsibilities of the CDHH by including a charge to provide public education on best practices for language acquisition development among deaf and hard of hearing children as well as promote the eradication of ignorance and discrimination toward deaf and hard of hearing individuals in schools and employment.

The bill also authorizes the CDHH to carry out the programs established in the bill, become a member or affiliate with professional organizations related to the Commission's scope, and undertake acts necessary to carry out the CDHH's powers, duties, and functions.

The bill allows the CDHH to fix, charge, and collect reasonable fees for interpreter registration, communication access services, and sign language instruction.

Commission for the Deaf and Hard of Hearing – Executive Director

The bill requires the Director to report directly to the Secretary or Deputy Secretary for Children and Families. The bill also requires the Director to be paid a comparable salary to executive directors of other commissions and provide that the CDHH must supervise and evaluate the Director. The Director is authorized to provide statewide coordination for communication access services.

High School Work-Based Learning Programs; House Sub. for SB 91

House Sub. for SB 91 exempts businesses from certain liability claims arising from a secondary student engaged in a "work-based learning program," as that term would be defined by the bill. A business will not be subject to the following civil liabilities occurring during the student's participation in a work-based learning program:

- A claim arising from the student's negligent act or omission; and
- A claim for bodily injury to the student or sickness or death by accident of the student.

The school district would be solely responsible for a student's loss due to bodily injury, sickness, or death caused by accident due to a negligent act or omission caused by the student or business. The bill would not provide immunity for the student or business for gross negligence or willful misconduct.

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

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

PACK Act

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

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

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

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

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

Computer Science Pre-service Educator Program

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

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

State Board of Education Grants

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

- Providing high-quality professional learning;
- Credentialing for computer science teachers;
- Supporting computer science professional learning;

- Creating resources to support implementation of the bill;
- Student recruitment; or
- Development of teacher preparation programs.

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

- School districts that work in partnership with providers of high-quality professional learning;

- Proposals that describe strategies to enroll female students, students from marginalized racial and ethnic groups underrepresented in computer science, students eligible for free and reduced-price meals, students with disabilities, and students who are English language learners; and

- Proposals from rural or urban areas that experience difficulties providing computer science offerings.

Career Technical Education Survey and Pilot Program

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

- Career and technical education pathway courses offered for high school credit;

- Concurrent enrollment partnership and duel enrollment courses offered for high school and college credit;

- What concurrent enrollment partnership and dual enrollment courses are offered by high schools, community colleges, or technical colleges;

- What career and technical education courses are offered by high schools that will not lead to credentialing;

- The number of students with documented accommodations who are not enrolled in a gifted program;

- First-time pass rate of students who have earned approved standard career and technical education credentials in the prior three years;

- First-time pass rate of students who have earned approved high-value credentials in the prior three years;

- Credentials earned in the prior three years and number of students who earned such credentials; and

- Amounts paid by school districts for students to take credential exams.

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

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

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

The bill requires the State Board to establish the Secondary Career Technical Education Credentialing and Student Transitioning to Employment Success Pilot Program for the 2022-2023 academic school year that targets high school students with documented accommodations who are not enrolled in a gifted program.

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

- Washburn Institute of Technology will receive a $20,000 stipend for additional counseling services for eligible students and additional coordination services with participating high schools;

- Each participating high school will receive a $500 stipend for additional student counseling service and coordination with Washburn Institute of Technology; and

- Participating high schools will be reimbursed for the cost of the credential exam for any participating student who takes a credential exam.

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

Student Online Personal Protection Act

The bill amends the Student Online Personal Protection Act to exclude national assessment providers that administer college and career readiness assessments from the definition of “operator.” The bill permits a national assessment provider to administer a college

and career readiness assessment questionnaire or survey to any student enrolled in grades K-12 without prior written permission from such student's parent or guardian.

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

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

The bill:

- Makes appropriations for the KSDE for FY 2022, FY 2023, and FY 2024 (Sections 1-4);
- Affirms the importance of excellence in education (Section 5);
- Establishes the Every Child Can Read Act (New Section 6), effective July 1, 2023;
- Authorizes boards of education of school districts to allow students enrolled in grades 6 through 12 to earn course credits through alternative educational opportunities (New Section 7);
- Establishes a transfer system for nonresident students between unified school districts based upon the student capacity of each unified school district (Sections 8, 9, 13, and15-18), effective July 1, 2023;
- Amends the Johnson County Research Triangle Authority Act (Section 10);
- Amends reporting requirements for the Kansas State High School Activities Association (KSHSAA) (Section 11);
- Requires local school boards to annually review state academic assessments and utilize such assessments and the school district's building needs assessment when reviewing and approving the school district's budget (Section 12);
- Amends the compulsory school attendance statute to consider students enrolled in a combination of public and private school during the required periods of time as compliant with compulsory attendance requirements (Section 14);
- Amends the Virtual School Act to prohibit any virtual school from offering or providing any financial incentive for a student to enroll in a virtual school (Section 19);
- Amends the Virtual School Act to require that a virtual school's graduation rate shall include only those students who enrolled in a virtual school with sufficient

credits to be expected to graduate in the same school year as such student's cohort group (Section 19);

- Amends the virtual school finance system to provide funding on a per-course basis for a student who is 19 years of age and younger and meets certain other requirements (Section 20);

- Amends the Tax Credit for Low Income Students Scholarship Program (Section 21);

- Amends the calculation of local foundation aid within the KSEEA by removing federal impact aid from the formula and amend the calculation of capital improvement state aid (Sections 22 and 23);

- Amends the school and school district accountability reports law and requires KSDE to prepare and submit to the Governor and the Legislature a summary report regarding student achievement (Section 24);

- Establishes the Capital Improvement State Aid Fund and identifies transfers as revenue transfers from the State General Fund (SGF) (Sections 25 and 26);

- Amends the Kansas Promise Scholarship Act (Sections 28-33);

- Amends parental notification and consent requirements regarding nonacademic tests, questionnaires, surveys, or examinations regarding a student's personal and private attitudes, values, beliefs, or practices (Section 27); and

- Establishes educational benefits for dependents or spouses of certain first responders and military personnel (Section 34).

Appropriations for FY 2022, FY 2023, and FY 2024

FY 2022

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

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

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

- $25,749 for operating expenditures;

- $7.8 million for the Kansas Public Employees Retirement System (KPERS) non-Unified School Districts (USDs);

- $24.0 million for the KPERS-USDs; and
- $58.6 million for State Foundation Aid in FY 2022.

FY 2023

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

- $14.2 million for operating expenditures;
- $157.3 million for State Foundation Aid;
- $54.0 million for Supplemental State Aid;
- $80,000 for Center for READing;
- $37.7 million for KPERS-non-USDs;
- $520.8 million for KPERS-USDs;
- $2.8 million for the ACT and WorkKeys Assessments Program;
- $10.5 million for the Mental Health Intervention Team Pilot Program;
- $300,000 for the Juvenile Transitional Crisis Center Pilot;
- $67,700 for Education Commission of the States dues;
- $10,000 for the School Safety Hotline;
- $5.1 million for the School District Juvenile Detention Facilities and Flint Hills Job Corps Center Grants;
- $2.5 million for School Food Assistance;
- $1.3 million for the Mentor Teacher Program;
- $110,000 for Educable Deaf-blind and Severely Handicapped Children's Programs Aid;
- $520.4 million for Special Education Services Aid;
- $360,693 for Governor's Teaching Excellence Scholarships and Awards;

- $1.8 million for Professional Development State Aid;
- $4.0 million for a virtual math program (SGF moneys would lapse if American Rescue Plan Act [ARPA] funds are available);
- $1.0 million for Computer Science Education Advancement Grants;
- $40,000 for the Computer Technical Education Pilot;
- $1.5 million for Career and Technical Education Transportation; and
- $4.0 million for School Safety and Security Grants.

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

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

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

The bill provides for the following transfers:

- $50,000 on July 1, 2022, or as soon as moneys are available, from the Family and Children Trust Account of the Family and Children Investment Fund of the KSDE to the Communities in Schools Program Fund of the KSDE;
- $550,000 on March 30, 2023, and $550,000 on June 30, 2023, from the State Safety Fund to the SGF to reimburse costs associated with services provided by other state agencies on behalf of KSDE;
- $73,750, quarterly, from the State Highway Fund of the Department of Transportation to the School Bus Safety Fund of KSDE;

- An amount certified by the Commissioner of Education from the Motorcycle Safety Fund of the KSDE to the Motorcycle Safety Fund of the State Board of Regents, to cover costs of driver's license programs conducted by community colleges; and

- $70,000 from the Universal Service Administrative Company E-rate program federal fund of the State Board of Regents to the Education Technology Coordinator Fund of KSDE.

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

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

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

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

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

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

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

FY 2024

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

Every Child Can Read Act

Purpose

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

Every Child Can Read Act

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

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

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

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

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

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

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

- The school district's interventions and outcomes of such interventions;

- The number of third-grade students in the district;

- The screening and assessment data that the district is using to evaluate student progress in literacy; and

- The percentage of all students and student subgroups who are proficient, moving towards proficiency, or deficient.

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

Alternative Educational Opportunities

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

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

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

Alternative Education Policy

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

- Eligibility requirements for sponsoring entities;

- Requirements for the provision of alternative educational opportunities by sponsoring entities;

- Procedures for a sponsoring entity to submit a proposal to the school district to provide an additional educational opportunity to students;

- Criteria the school district will use to evaluate proposals; and

- Course credit that may be earned through the alternative educational opportunity.

Alternative Education Proposals

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

- Provides an additional learning opportunity through a work-based, pre-apprenticeship, apprenticeship, internship, industry certification, or community program; and

- Is approved by the State Board of Education (State Board) as an alternative educational opportunity; or

- Complies with the school district policies adopted pursuant to the program; and

- Is managed and directed by a licensed teacher employed by the school district.

State Board of Education

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

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

Reporting Requirement

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

Open Enrollment

Definitions

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

Transfer Policy

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

The bill requires the policies to be consistent with the provisions of the bill and clearly specify reasons for the denial of continued enrollment by a nonresident student. Such reasons

for denial could include, but are not limited to, elements such as a nonresident student's history of school absenteeism, suspensions, or expulsions.

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

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

Public School Eligibility

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

Open Enrollment Procedure

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

Capacity

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

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

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

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

Transfer Application Process

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

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

Student Denial

The bill requires any district denying the continued enrollment of a nonresident student or denying the acceptance of a new nonresident student to notify the student's parent or guardian of the reason for denial. Reasons for such denial can include, but are not limited to, elements such as a nonresident student's history of school absenteeism, suspensions, or expulsions. [*Note:* Students can be denied acceptance to a nonresident district only if there is no capacity or they were not selected during the lottery process.]

Nonresident Enrollment Priority and Exceptions

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

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

Prohibitions

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

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

Continued Enrollment

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

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

Transportation

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

Kansas State High School Activities Association

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

Reporting

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

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

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

The bill also clarifies open enrollment will not apply to schools on military bases. [*Note:* This provision currently applies only to USD 207, Fort Leavenworth and USD 475, Geary County Schools.]

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

Johnson County Research Triangle

The bill authorizes use of funds remitted to the Johnson County Research Triangle to be used for other undergraduate and graduate programs at the Johnson County location of Kansas State University that have been both approved by the Johnson County Research Triangle

Authority Board of Directors and do not include either pre-baccalaureate programs or lower-division courses for high school students.

Kansas State High School Activities Association Reporting

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

Using Needs Assessment in Budget Processes

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

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

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

- Barriers that must be overcome for all students to achieve above level 2 proficiency on state assessments;

- Budget actions that should be taken to address and remove barriers; and

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

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

Part-time Enrollment

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

- Clarifying that, following a final counseling session with the school, the student's parent or person acting as parent can provide written consent to allow exemption; and

- Including an exemption for a child subject to a court order that allows or requires the child be exempt from compulsory attendance.

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

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

Virtual School Graduation Rates and Virtual School Financial Incentives

Virtual School Graduation Rates

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

Virtual School Financial Incentives

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

Virtual Diploma Completion

Virtual Diploma Completion

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

- Has a ratio of earned credits to expected credits for their cohort year of less than 75.0 percent when enrolling in a virtual school;

- Has done one of the following:

    - Dropped out of high school such that the student has not attended any school of a school district for 60 consecutive days or more during the current school year and the student is not reasonably anticipated to recommence enrollment or attendance at any school or school district during the current school year;

    - Dropped out of high school such that the student has not attended any school of a school district for 60 consecutive days or more during the preceding school year, and the student did not finish such preceding school year, and the student is not reasonably anticipated to recommence

enrollment or attendance at any school of a school district during the current school year; or

- Been exempted from compulsory student attendance by written consent of the parent pursuant to KSA 72-3120; and

- Has not been counted in the enrollment of a virtual school as a full-time or part-time virtual student during the school year in which such student enrolls as a dropout diploma completion virtual student.

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

Tax Credit for Low Income Students Scholarship Program

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

Federal Impact Aid and Capital Improvement State Aid

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

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

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

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

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

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

Student Achievement Summary Report

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

- A statewide summary of the performance accountability reports and longitudinal achievement reports that are prepared by KSDE, which include:
    - Achievement results from English language arts (ELA) and math assessments over the preceding five years for all students and student subgroups to show whether there are statewide trends in academic achievement or learning loss;
    - A comparison to any other evaluation metric used by the State Board, such as college and career readiness or graduation rates;
    - A comparison to other educational assessments such as the National Assessment of Educational Progress (NAEP);
    - An analysis of trends in student achievement outcomes and a review of conditions that are impacting educational outcomes;
    - A review of the academic interventions that school districts are using to improve student performance, whether the State Board has any recommendations regarding interventions, and the estimated achievement gains of such interventions; and
    - A summary of performance levels and the scale and cut scores for the statewide assessments; and

- A student-focused longitudinal achievement report that provides information on achievement gains or losses for certain student cohort groups. Such report must begin with all students entering the third grade and the students entering eighth grade in school year 2022-2023 and summarize the longitudinal achievement of such students over a three-year period. KSDE must repeat such report every three years for such grade levels. Each longitudinal report must include:
    - A summary of the improvement or learning loss occurring within such cohorts;
    - An analysis of evaluations and metrics used to measure the year-over-year achievement of such student cohorts;
    - A review of the academic interventions that school districts use to improve student performance, whether the State Board has any recommendations regarding interventions, and the estimated achievement gains of such interventions; and
    - The achievement results from the ELA and math assessments and any other assessment data, such as the NAEP, ACT, and pre-ACT for such student cohort groups.

Surveys

The bill adds requirements for the administration of nonacademic surveys, including tests, questionnaires, and examinations in schools. The bill applies such requirements to any survey administered during the school day that contains questions about the personal and private attitudes, values, beliefs, or practices of the student or any of the student's family, friends, or peers. The bill requires the school to provide written notification prior to the

administration of any such survey to the parent or guardian no more than four months in advance of the administration of the survey. The bill requires the written parental notification to include the following information:

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

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

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

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

Suicide Risk Assessments and Screening Tools

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

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

Promise Scholarships

Definitions, Kansas Promise Scholarship Act

The bill amends the definition of "eligible postsecondary institution" by adding the requirement that any community college or technical college have a recognized service area in order to qualify. The bill amends the definition of "part-time student" to clarify that enrollment in the required six credit hours could occur in the fall, summer, or spring semester.

The bill amends the term "promise eligible program" to require the program to be both approved by the Board and be considered high wage, high demand, or critical need. The bill also requires promise-eligible programs to be within a field of study designated in the bill. [*Note:* These requirements are added to all other requirements within the program definitions.]

State Board of Regents

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

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

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

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

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

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

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

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

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

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

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

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

postsecondary institutions on September 15, December 15, March 15, and June 15 of each year.

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

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

Postsecondary Institutions

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

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

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

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

- The field of study contains promise-eligible programs approved by the Board;
- The institution already offers such field of study; and
- The field of study is one of the following:
    - Agriculture;
    - Food and natural resources;
    - Education and training;
    - Law, public safety, corrections, and security; or
    - Distribution and logistics.

The bill removes provisions allowing the designation of a single additional program rather than all eligible programs within a field of study.

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

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

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

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

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

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

- Prerequisite classes required for promise-eligible programs unless said prerequisite is within the eligible program; or

- Any remedial course as defined in statute unless offered in a corequisite format.

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

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

- Issuance date on a Kansas-issued identification card;
- Kansas voter registration records; or
- Kansas income tax documentation.

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

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

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

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

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

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

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

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

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

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

Kansas Hero's Scholarship Act

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

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

Definitions

The bill adds the following definitions:

- "Accident" means an undesigned, sudden and unexpected traumatic event, usually of an afflictive or unfortunate nature and often, but not necessarily, accompanied by a manifestation of force. An accident will be identifiable by the time and place of occurrence, produce at the time symptoms of an injury, and occur during a single work shift. The accident will be the prevailing factor in causing the injury.

- "Covered person" means a public safety officer or Kansas resident in military service to whom this section applies.

- "Fees" means those charges required by an institution to be paid by every student as a condition of enrollment. Fees do not include all other charges associated with the student's academic program or living costs.

- "Injured or disabled" means the covered person, because of the injury or disability, has been incapable of performing the following duties:
  - The position being performed at the time the injury or disability was sustained; and
  - Any position that is at or above the pay level of the position the covered person was in at the time the injury or disability was sustained, if the covered person is a paid employee.

- "Injury and disability" means any lesion or change in the physical structure of the body causing damage or harm thereto that is not transitory or minor. Injury and disability may occur only by accident, intentional act of violence, or repetitive trauma.

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

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

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

- "Nature of the employment" means that, to the occupation, trade, or employment in which the covered person was engaged, there is attached a particular and peculiar hazard of the injury or disability that distinguishes the performance of job duties from other occupations and employments and that creates a hazard of such injury or disability in excess of the hazard of the injury or disability in general.

- "Repetitive trauma" means the cause of an injury that occurs as a result of repetitive use, cumulative traumas, or microtraumas. The repetitive nature of the injury will be demonstrated by diagnostic or clinical tests. The repetitive trauma will be the prevailing factor in causing the injury.

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

ELECTIONS AND ETHICS

Elections and Voting; Senate Sub. for HB 2138

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

Affidavit System

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

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

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

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

Biannual Elections Audit

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

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

- One county must have a voting-age population of more than 90,000;

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

- Two counties must have voting-age populations of less than 20,000.

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

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

Watermarks

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

The bill requires the ballot to be:

- Marked by the voter, or person assisting the voter as permitted by law, by hand or by use of a voting machine that is a non-tabulating paper ballot marking or printing device;

- Subject to inspection and verification by the voter after marking and before the vote is cast and counted; and

- Canvassed by hand or by vote-tabulating equipment.

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

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

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

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

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

Exemptions from Certain Election Crimes for Poll Workers

Assisting Voters in Marking or Signing Advanced Voting Ballots

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

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

Confirmation Notices

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

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

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

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

Crime of Electioneering

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

- Any county election officer (under continuing law, this exemption also applies to the Secretary and election officials);

- A candidate for precinct committeeman or committeewoman who is:

  - Employed by a county election office; and
  - Engaged in the performance of such employee's duties; and

- A candidate for any office, not including candidates for Secretary of State, any election official or any county election officer, or precinct committeeman or committeewoman, who is:

  - Employed by a county election office;
  - Engaged in the performance of such employee's duties; and
  - Not appearing as a candidate for office on any ballot such employee touches, handles, distributes, or counts.

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

Audit of Elections Within One Percent

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

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

Canvass Abstracts Available for Review

The bill requires, upon the publication of the notice of the time and location of the audit required by the bill, that the abstracts of original canvass be made available for review by any authorized poll agent. The bill requires the abstracts from all precincts to be made available for review, not just the abstracts of precincts subject to the audit. [*Note:* A county election board, upon completion of its canvass, makes and certifies abstracts of the votes cast for each precinct.]

Elections Results—State Board of Canvassers

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

Electronic Poll Books

Definition

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

Board of County Commissioners and County Election Officer Provisions

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

Prohibitions

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

Secretary of State Responsibilities

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

Sale of Electronic Poll Books

The bill permits any person, firm, or corporation that desires to sell electronic poll books to political subdivisions in the state to request in writing for the Secretary to examine such poll books. The bill requires any such written request to include a certified check for $250 to defray

costs for the Secretary to provide the examination. [*Note:* Such examination will follow the guidelines for examination of electronic or electromechanical voting systems in KSA 25-4405.]

Electronic or Electromechanical Voting Systems

The bill requires that any electronic or electromagnetic voting system approved by the Secretary shall not have the capability of, or any component thereof shall not have the capability of, connecting to the internet or any other communications or computer network. The bill specifies such networks include, but are not limited to, a local area network, wireless network, cellular network, or satellite network, or the use of Bluetooth or any other wireless communications technology.

Use of Electronic Poll Books and Electronic or Electromechanical Voting Systems

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

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

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

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

Testing of Vote Tabulation Equipment

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

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

Electronic Poll Book Fraud

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

- Being in unlawful or unauthorized possession of electronic poll books; or

- Intentionally tampering with, altering, disarranging, defacing, impairing, or destroying any electronic poll book, or component thereof.

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

Optical Scanning Equipment

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

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

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

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

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

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

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

FINANCIAL INSTITUTIONS

Conversion to Full Fiduciary Financial Institution Charter; SB 337

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

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

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

Resolution by Nonjudicial Settlement Agreement

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

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

Non-economic Trust

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

Definition of "Resident Trust"

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

TEFFI Act—Amendments; Required Reporting of Elder Abuse; HB 2489

HB 2489 makes several amendments to the Technology-enabled Fiduciary Financial Institutions Act (TEFFI Act) pertaining to an updated definition, fingerprinting requirement, existing application fee, governing documents, evaluation and examination, customer disclosure, and services and authorized activities. The bill also amends the definition of "financial institution" within a statute requiring the reporting of abuse, neglect, or exploitation of certain individuals to include fiduciary financial institutions.

Definitions

The bill amends the terms "fidfin," "fidfin services," or "fidfin transactions" to mean the financing of a fidfin trust or the acquisition of alternative assets on behalf of and through a fidfin trust or both, as provided in TEFFI Act provisions pertaining to the extension of financing or extensions of credit by a fidfin trust, including loans, extensions of credit, and direct investments. The bill adds definitions for the terms "out-of-state bank," "out-of-state financial institution," and "out-of-state trust company."

Certificate of Authority and Charter; State Banking Board; Certain Financial Institutions, Engaging in Fidfin Transactions

The bill amends provisions that permit the State Banking Board to require fingerprinting of any officer, director, organizer, or any other person of the proposed fiduciary financial institution to remove the reference to "any other person" and remove discretion granted to the Board related to fingerprinting associated with certain applications.

The bill clarifies provisions relating to approval by the State Banking Board of applications of banks, trust companies, and fiduciary financial institutions to engage in fidfin transactions to specify the provisions apply to state-chartered banks and trust companies.

The bill further specifies any trust company whose application has been approved and any out-of-state trust company engaging in fidfin transactions in Kansas will be considered a fiduciary financial institution, have all rights and powers granted to a fiduciary financial institution, and owe all duties and obligations imposed on fiduciary financial institutions as provided in the TEFFI Act.

The bill requires any bank whose application has been approved and any out-of-state bank engaging in fidfin transactions in Kansas to have a separate department for handling fidfin transactions. This separate department will be considered a fiduciary financial institution, have all rights and powers granted to a fiduciary financial institution, and owe all duties and obligations imposed on fiduciary financial institutions as provided in the TEFFI Act.

The bill further provides that banks or trust companies whose applications have been approved or an out-of-state financial institution engaging in fidfin transactions in Kansas will not be subject to TEFFI Act provisions pertaining to capitalization requirements, organization and control, and naming restrictions. The State Bank Commissioner (Commissioner) will not be authorized to examine or require applications, reports, or other filings from an out-of-state financial institution that is subject to oversight of such institution's fidfin transactions by a governmental agency of the jurisdiction that chartered the out-of-state financial institution.

Fees and Assessments

The bill removes language in the TEFFI Act relating to the assessment of an initial fee of $500,000 that is required to be remitted concurrently with the fiduciary financial institution's charter and instead provides that an application for a fiduciary financial institution charter must include a nonrefundable fee that to be remitted in a manner prescribed by the Commissioner. The bill further provides that until July 1, 2025, the application fee will be $250,000. On and after July 1, 2025, the application fee will be $100,000.

The bill updates the date for the assessment sent by the Commissioner to each fiduciary financial institution from December 1 to July 1 and removes language regarding the frequency of collection for the assessment, invoicing of, and an assessment penalty for failure to pay. The bill instead provides that when the Commissioner issues an assessment statement, payment must be made within 15 days after the date the statement was sent in a manner prescribed by the Commissioner, which may include such installment periods as the Commissioner deems appropriate, but not more frequently than monthly.

Application of Provisions, Chapter 9; Exceptions

The bill amends language in the TEFFI Act pertaining to the application of the Kansas Banking Code (Chapter 9, *Kansas Statutes Annotated*) provisions to a fiduciary financial institution in the same manner those provisions apply to a trust company. The bill adds clarifying language to address fidfin and fiduciary financial institution business, including the ability to conduct fidfin transactions by state-chartered banks and trust companies. The bill specifies these exceptions:

- For a state-chartered trust company that receives authority to engage in fidfin transactions under the TEFFI Act (KSA 9-2302(b)), the application of the Kansas Banking Code provisions would not apply;
    - The bill, however, further specifies that references in Chapter 9 to "trust business" and "business of a trust company" include fidfin and fiduciary financial institution business;

- For a state-chartered bank that receives authority to engage in fidfin transactions under the TEFFI Act, the application of the Kansas Banking Code provisions will not apply;
    - The bill, however, further specifies the provisions of Chapter 9 will apply in the same manner as they would apply to a trust department of such bank, except that references in Chapter 9 to "trust business" and "business of a trust company" include fidfin and fiduciary financial institution business.

The bill also creates an exception to language relating to conflicts between Chapter 9 and the TEFFI Act. Specifically, the bill provides if the fiduciary financial institution is a bank department or trust company that received authority to engage in fidfin transactions, the provisions of the TEFFI Act shall only control with regard to fidfin transactions as authorized by that act.

The provisions applying to authorized fidfin transactions and Chapter 9 exceptions will not apply to an out-of-state financial institution.

Business of Fiduciary Financial Institutions, Management and Control

The bill replaces references to a fiduciary financial institution's operating agreement or bylaws with the term "governing documents" in provisions applying to the management and control by the institution's board of directors.

Reporting to the Bank Commissioner; Evaluation of Fiduciary Financial Institutions

The bill removes references to evaluating the safety and soundness of a fiduciary financial institution in provisions pertaining to reports submitted to the Commissioner, as required in the State Banking Code. The bill updates criteria that originally pertained to evaluation of safety and soundness to instead specify examination of, as it applies to the review of criteria, and further requires the following to be evaluated:

- The profitability of a fiduciary financial institution, in accordance with other provisions pertaining to profitability (described below);
- A fiduciary financial institution's compliance with applicable state and federal laws; and
- A fiduciary financial institution's information technology systems, policies, and practices.

Profitability

The bill modifies a provision that specifies profitability should be a consideration in evaluating the safety and soundness of fiduciary financial institutions if certain criteria has been met to instead specify profitability would not be a consideration in evaluating a fiduciary financial institution (existing criteria would still be applicable; *i.e.*, sufficient capital and equity must exist in the business).

Fiduciary Financial Institution Powers; Fidfin Transactions

The bill amends the powers of a fiduciary financial institution to engage in trust business by requiring such trust business to be incidental to engaging in fidfin transactions and to receiving, retaining, and managing alternative asset custody accounts.

Additional Powers, Duties, and Responsibilities—Extension of Credit and Financing

The bill modifies a provision that permits a fiduciary financial institution to extend financing to a fidfin trust to permit extension of financing through loans or extensions of credit. The bill also adds a disclosure requirement on fiduciary financial institutions. Under the bill, these institutions must disclose to a customer the information required by rules and regulations adopted by the Commissioner (existing authorization in the TEFFI Act) to ensure that the

customer is informed regarding the nature of the customer's transactions with the fiduciary financial institution, taking into account the level of sophistication of the customer.

Employment of Professionals; Professional Services

The bill adds language to provide that whenever a fiduciary financial institution causes to be performed for this institution, by contract or other means, any service under the TEFFI Act or the State Banking Code, that performance will be subject to regulation and examination by the Commissioner to the same extent as if the service was being performed by the fiduciary financial institution itself.

Exemption from Article 8 of the State Banking Code

The bill requires a fiduciary financial institution, when engaging an appointed trust advisor, to notify the Commissioner in writing of its existence and capacity to act within 30 days of the establishment of the capacity.

Reporting of Elder Abuse by Financial Institutions

The bill amends provisions pertaining to the mandatory reporting of abuse, neglect, or exploitation of certain individuals to include fiduciary financial institutions in the definition of "financial institution."

Remote Locations for Mortgage Businesses; HB 2568

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

Definitions

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

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

Conducting Mortgage Business at Remote Locations

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

- The licensed mortgage company's employees or independent contractors do not meet with the public at a personal residence;

- No physical business records are maintained at the remote location;

- The licensed mortgage company has written policies and procedures for working at a remote location, and the company supervises and enforces the policies and procedures;

- The licensed mortgage company maintains the computer system and customer information in accordance with the company's information technology security plan and all state and federal laws;

- Any device used to engage in mortgage business has appropriate security, encryption, and device management controls to ensure the security and confidentiality of customer information as required by rules and regulations adopted by the State Bank Commissioner (Commissioner);

- The licensed mortgage company's employees or independent contractors take reasonable precautions to protect confidential information in accordance with state and federal laws; and

- The licensed mortgage company annually reviews and certifies that the employees or independent contractors engaged in mortgage business at remote locations meet the requirements of this section of the bill. Upon request, a licensee is required to provide written documentation of the licensee's review to the Commissioner.

License and Registration Requirements

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

The bill authorizes the Commissioner to assess a late fee on any renewal application received after December 1 of each year and on any incomplete renewal application as of December 1 of each year. The Commissioner may designate late fees for consumer education to be spent for that purpose as directed by the Commissioner. The bill allows for an expired license or registration to be reinstated through the last day of February of each year by filing a reinstatement application and paying the application and late fees. Upon reinstatement, the license and registration is considered in full force and effect.

Surety Bond Requirements

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

GAMING

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

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

Lottery Control of Sports Wagering

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

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

Sports Wagering Operations

The bill authorizes the Lottery to offer sports wagering:

- In accordance with the KLA and KELA; and

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

- Through one or more platforms including the use of any such platform at the primary facility of a sporting facility pursuant to a marketing agreement entered into between the Lottery and the facility.

Platforms, Compulsive Gambling

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

- Serve the public convenience;

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

- Offer sports wagers.

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

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

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

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

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

Compulsive Gambling

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

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

- Prominently displayed tools to set limits on the time and money spent by a person on any interactive sport wagering platform;

- Prominently displayed information regarding compulsive gambling and ways to seek treatment and support; and

- The ability for a person to exclude the use of certain electronic payment methods if desired by the person.

Sports Wagering Suppliers

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

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

Supplier License Application

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

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

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

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

Supplier License Term; Fee

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

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

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

Marketing Agreement—Professional Sports Team, Sporting Facility

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

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

Marketing Agreement Requirements

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

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

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

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

Sporting Facility

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

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

Maximum Number of Agreements

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

Marketing Agreement Approval

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

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

Advertisements

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

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

Wagering Restrictions on Certain Sporting Events

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

Prohibited Wagering, Investigations, Records

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

- Prohibit the manager; any director, officer, owner, and employee of the manager; and any relative living in the same household as such persons from placing any wager with the manager at the manager's location or through the manager's platform;

- Prohibit athletes, coaches, referees, team owners, employees of a sports governing body or its member teams, and player and referee union personnel from placing wagers on any sporting event overseen by such sports governing body (using publicly available information that may be provided to the Lottery and KRGC by sports governing bodies);

- Prohibit any person with access to nonpublic confidential information held by the manager from placing any wager with the manager;

- Prohibit persons from placing any wager as an agent or proxy for another person;

- Prohibit from placing wagers any person known by the manager as having been convicted of any felony or misdemeanor offense involving sports wagering, including, but not limited to:

    - The use of funds derived from illegal activity to make any wager;
    - Placing any wager to conceal money derived from illegal activity;
    - The use of other individuals to place any wager as part of any wagering scheme to circumvent any provision of federal or state law; and
    - The use of false identification to facilitate the placement of any wager or collection of any prize in violation of federal or state law; and

- Maintain the security of wagering data, customer data, and other confidential information from unauthorized access and dissemination.

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

Investigations

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

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

- Criminal or disciplinary proceedings commenced against the manager in connection with the manager's operations in any jurisdiction in which such manager manages sports wagering activity;

- Abnormal wagering activity or patterns that may indicate a concern with the integrity of a sporting event in any jurisdiction in which such manager manages sports wagering activity;

- Any potential breach of the relevant sports governing body's internal rules and codes of conduct pertaining to sports wagering;

- Any other conduct that knowingly corrupts a betting outcome of a sporting event, including match-fixing; and

- Suspicious or illegal wagering activities, including, but not limited to:

    - Funds derived from illegal activity;
    - Wagers to conceal or launder funds derived from illegal activity;
    - Agents to place wagers; and
    - False identification when placing wagers.

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

League Data, Personally Identifiable Information

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

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

Required Records

Sports wagering managers are required to maintain records of:

- All wagers placed, including personally identifiable information of the person placing the wager;

- The amount and type of the wager;

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

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

Payment and Reimbursement

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

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

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

Cause of Action for Improper Influence

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

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

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

Self-restriction List

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

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

Sports Wagering Receipts Fund

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

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

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

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

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

Attracting Professional Sports to Kansas Fund

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

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

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

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

White Collar Crime Fund

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

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

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

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

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

Tribal Gaming Compact

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

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

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

Historical Horse Race Machines

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

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

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

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

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

Operation of Historical Horse Race Machines

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

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

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

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

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

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

Machine Limit

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

Tax Rate

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

Rules and Regulations

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

Actions Against the State

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

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

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

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

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

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

Privilege Fee Repayment Fund

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

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

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

Severability

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

Misuse of Nonpublic Sports Information

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

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

The bill adds these provisions to the Kansas Criminal Code.

Sports Bribery and Tampering with a Sports Contest

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

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

Other Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Lottery Rule and Regulation Authority

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

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

KRGC Rule and Regulation Authority

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

Problem Gambling and Addictions Grant Fund

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

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

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

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

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

Conflict of Interest

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

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

Lottery Management Contracts

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

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

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

- 10.0 percent of all sports wagering revenues received from wagers placed in person at the lottery gaming facility; and

- 10.0 percent of all sports wagering revenues received by the sports wagering manager from wagers placed on the platform selected by the manager and approved by the Lottery Director.

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

Certification of Certain Persons; Rules and Regulations

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

Certification for Employees Involved in Sports Wagering

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

- Employees of a sports wagering manager or other entity owned by the manager's parent company that are directly involved in the operation or management of sports wagering managed by such manager; and

- Those persons who propose to contract with a manager for the provision of goods or services related to sports wagering, including any platform requested by a manager.

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

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

- Knowingly provided false or misleading material information to the Lottery, the KRGC, or employees of either;

- Been convicted of a felony, gambling-related offense, or any crime of moral turpitude;

- Intentionally violated any provision of any contract between the Lottery and the certificate holder; or

- Intentionally violated any provision of KELA or any rule and regulation adopted pursuant to KELA.

The bill states certification is not assignable or transferable.

Facility Inspection and Security Measures

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

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

Minimum Age

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

Prohibited Wagers

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

- The Lottery Director, a member of the Lottery Commission, or any employee or agent of the Lottery;

- The Executive Director of the KRGC (KRGC Director), a member of the KRGC, or any employee or agent of the KRGC;

- A manager; any director, officer, owner, or employee of such manager; or any relative living in the same household as such persons;

- A platform; any director, officer, owner, or employee of such platform; or any relative living in the same household as such persons;

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

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

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

Gray Machines

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

Organizational Licenses

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

Greyhound Racing Restrictions

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

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

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

HEALTH

988 Suicide Prevention and Mental Health Crisis Hotline; House Sub. for SB 19

House Sub. for SB 19 creates the Living, Investing in Values, and Ending Suicide (LIVES) Act (Act). The Act implements the established 988 Suicide Prevention and Mental Health Crisis Hotline (Hotline) in Kansas. The bill outlines the responsibilities of the Kansas Department for Aging and Disability Services (KDADS), Hotline centers, and service providers. The bill establishes the 988 Suicide Prevention and Mental Health Crisis Hotline Fund (Hotline Fund) and directs State General Fund moneys to be transferred to the Hotline Fund. Additionally, the bill provides certain protections from liability for services providers, creates the 988 Coordinating Council (Council), and requires an annual report from the Council to select Legislative standing committees.

Definitions (Section 2)

The bill defines terms used in the Act, including:

- "Crisis stabilization services" means short-term services for up to 72 hours, with capacity for diagnosis, initial management, observation, crisis stabilization, and follow-up referral services;

- "Hotline" means the 988 Suicide Prevention and Mental Health Crisis Hotline or its successor maintained by the federal Assistant Secretary for Mental Health and Substance Use;

- "Hotline center" means a 988 Suicide Prevention and Mental Health Crisis Hotline center, designated by KDADS, participating in the National Suicide Prevention Lifeline network to respond to statewide or regional 988 calls;

- "Mobile crisis team" means a team of behavioral health professionals and peers that provide professional, community-based, crisis intervention services, including, but not limited to, de-escalation and stabilization for individuals who are experiencing a behavioral health crisis. Such services are separate and distinct from 911 emergency responses of emergency medical services or law enforcement; and

- "NSPL" means the National Suicide Prevention Lifeline, the national network of local, certified crisis centers that provide free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours per day, 7 days per week.

Responsibilities of KDADS, Hotline Centers, and Service Providers (Section 3)

KDADS

In accordance with provisions of 47 CFR §52.200, the bill requires KDADS, prior to July 16, 2022, to:

- Designate a Hotline center or network of centers to provide crisis intervention services and care coordination to individuals accessing the Hotline 24 hours per day, 7 days per week;

- Create a system for information sharing and communication between crisis and emergency response systems and Hotline centers for the purpose of real-time crisis care coordination including, but not limited to, deployment of crisis and outgoing services specific to a crisis response of 911 emergency responders when necessary;

- Convene mobile crisis teams;

- Develop guidelines for deploying services, including mobile crisis teams, coordinating access to crisis stabilization services or other local resources as appropriate, and providing referrals and follow-ups;

- Coordinate consistent public messaging regarding the Hotline with NSPL, KDADS, and the U.S. Department of Veterans Affairs (VA);

- Require training as established by NSPL for Hotline center staff for servicing, or transferring to appropriate specialized centers, high-risk and specialized populations identified by the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA);

- Work with the Kansas Department of Health and Environment (KDHE) and KanCare managed care organizations (MCOs) to develop plans for payment for KanCare members and uninsured services;

- Create an advisory board to provide guidance to the Secretary for Aging and Disability Services (Secretary), gather feedback, and make recommendations for Hotline centers, local counties, and municipalities regarding the planning and implementation of the Hotline;

- Hire a statewide suicide prevention coordinator; and

- Adopt rules and regulations to implement the provisions of the Act.

The bill requires KDADS, after July 16, 2022, to:

- Consult with the advisory board created by the bill to provide guidance to the Secretary, gather feedback, and make recommendations for Hotline centers, local counties, and municipalities regarding usage and services provided in response to calls to the Hotline centers;

- Fund payment for crisis stabilization services provided to an individual in direct response to a Hotline center call if such individual is uninsured or such services are not covered by such individual's insurance; and

- Apply for, receive, administer, and utilize any grants or assistance made available by the federal government, or other public or private sources for the purpose of this Act.

Hotline Centers

The bill requires the Hotline centers, prior to July 16, 2022, to:

- Establish an agreement with NSPL for participation within the network of crisis centers;

- Meet any training requirements for Hotline center staff established by NSPL or KDADS;

- Enter into memorandums of understanding with local service providers to be deployed according to KDADS guidelines;

- Coordinate access to crisis stabilization services or other local resources as appropriate according to KDADS guidelines;

- Provide referrals and follow-ups according to KDADS guidelines;

- Work with the VA to route calls from self-designated veterans for the provision of Veterans Crisis Line services; and

- Meet any Hotline center provisions required to be met after July 16, 2022, if the Hotline center has the capacity to meet such provisions prior to such date.

The bill requires Hotline centers, after July 16, 2022, to:

- Receive all calls initiated by a service user dialing 988 from service providers;

- Deploy crisis services, including mobile crisis teams, according to KDADS guidelines;

- Coordinate access to crisis stabilization services or other local resources as appropriate according to KDADS guidelines;

- Provide referrals and follow-ups according to KDADS guidelines;
- Continue to meet training requirements established by NSPL and KDADS; and
- Continue to work with the VA to route calls from self-designated veterans for the provision of Veterans Crisis Line services.

Service Providers

The bill requires service providers, prior to July 16, 2022, to:

- Establish 988 as the unique number for suicide prevention and mental health crisis;
- Transmit all calls initiated by a service user dialing 988 to the current toll-free access number for NSPL;
- Complete all changes necessary to implement the designation of the 988 dialing code; and
- Prepare for the potential collection and remittance of fees to the Hotline Fund.

The bill requires service providers, after July 16, 2022, to direct all calls initiated by a user dialing 988 to Hotline centers.

Liability Protection (Section 4)

The bill provides that each service provider and seller, and employees, agents, suppliers, and subcontractors of each service provider and seller, are not liable for the payment of damages resulting directly or indirectly from the total or partial failure of any transmission to an emergency communication service or for damages resulting from the performance of installing, maintaining, or providing 988 service, except as provided by the Kansas Tort Claims Act and for action or inaction that constitutes gross negligence or willful and wanton misconduct.

988 Suicide Prevention and Mental Health Crisis Hotline Fund (Section 5)

The bill establishes in the State Treasury the Hotline Fund to be administered by the Secretary for Aging and Disability Services (Secretary). The bill requires all moneys received for the purpose of the Hotline Fund to be deposited to the credit of the Hotline Fund.

The bill requires, on or before the 10th of each month, the Director of Accounts and Reports to transfer from the State General Fund (SGF) to the Hotline Fund interest earnings based on the average daily balance of moneys in the Hotline Fund for the preceding month and the net earnings rate of the Pooled Money Investment Portfolio for the preceding month.

The bill requires moneys credited to the Hotline Fund to be used only to pay expenses that are reasonably attributed to:

- Ensuring the efficient and effective routing of calls made to the Hotline to an appropriate crisis center; and

- Personnel; the provision of acute mental health, crisis outreach, and stabilization services by directly responding to the Hotline; mobile crisis response services, including, but not limited to, services for those persons with intellectual or developmental disabilities and persons with behavioral health needs; public promotion; data collection; and reporting.

The bill prohibits moneys credited to the Hotline Fund from being used to pay expenses that are attributed to persons or entities who are domiciled outside the state.

The bill mandates that moneys in the Hotline Fund be used for the purposes set forth in the bill and for no other governmental purposes.

On July 1, 2022, and on each July 1 thereafter, the Director of Accounts and Reports is required to transfer $10.0 million from the SGF to the Hotline Fund.

Beginning in FY 2023 and for each subsequent fiscal year, the SGF transfer required will be reduced by the certified unencumbered ending balance of the Hotline Fund for the previous fiscal year. The Secretary, in consultation with the Director of the Budget, is required to certify at the end of each fiscal year the amount of unencumbered ending balance in the Hotline fund and communicate this information to the Director of Accounts and Reports and the Director of Legislative Research.

Annual Report to the Legislature (Section 6)

On or before the first day of each regular session of the Legislature, the Secretary is required to submit a report to the House Committees on Appropriations; Energy, Utilities and Telecommunications; and Health and Human Services and the Senate Committees on Ways and Means; Utilities; and Public Health and Welfare, or any successor committees, detailing outcomes related to implementation of the Hotline in Kansas. The bill requires the report to include the following key performance indicators:

- Outcomes related to Hotline implementation in Kansas;

- Hotline usage in Kansas;

- Services provided in response to Hotline usage;

- Availability of any federal or other public or private funding sources for the purpose of administering the Act, along with information on any applications that were submitted to receive such financial assistance and the amounts received, if any;

- Estimate of the necessary cost to continue to support and fund the requirements of the Act in the ensuing fiscal year; and

- Recommendations regarding how costs may be funded, including through the collection of fees or charges on telecommunications services, with estimates of such charges.

Hotline Number of Student Identification Cards (Section 7)

The bill encourages each school district that issues student identification cards to students in grades 6 through 12 to include on such identification cards the 988 Hotline number, or if the Hotline is not in operation, then a local, state, or national suicide prevention hotline telephone number.

988 Coordinating Council (Section 8)

Purpose

The bill creates the 988 Coordinating Council (Council) to advise the Secretary on the delivery of 988 services, develop strategies for future enhancements to the 988 system, and distribute funds to organizations providing services as National Suicide Prevention Lifeline Centers (NSPL Centers).

Membership

The bill requires the Council, to the extent possible, to include individuals with technical expertise regarding mental health crisis delivery services, call center technology and services, and any other relevant subject matter.

The Council consists of the following 11 voting members representing various entities, as indicated:

- Nine voting members appointed by the Governor, with one member from each of the following:
    - Information technology personnel from government units;
    - NSPL Centers located in counties with a population of fewer than 75,000;
    - NSPL Centers located in counties with a population greater than 75,000;
    - Kansas Sheriffs Association;
    - Kansas Association of Chiefs of Police;
    - Kansas Association of Community Mental Health Centers;
    - InterHab; and
    - KDADS; and
    - A member recommended by the Kansas Commission for the Deaf and Hard of Hearing.

- Two voting legislative members appointed by the Legislative Coordinating Council, as follows:
    - One member of the House Committee on Appropriations; and
    - One member of the Senate Committee on Ways and Means.

The Council also includes six nonvoting members appointed by the Governor:

- A representative of rural telecommunications companies recommended by the Kansas rural independent telephone companies;
- A representative of incumbent local exchange carriers with over 50,000 access lines;
- A representative of large wireless providers;
- A member recommended by the League of Kansas Municipalities;
- A member recommended by the Kansas Association of Counties; and
- A Kansas resident recommended by the Mid-America Regional Council.

Terms

Except as otherwise indicated in the bill, each voting member is appointed for a three-year term and until a successor is appointed and qualified. Of the nine voting members appointed by the Governor, three are appointed to an initial term of two years and three to an initial term of four years, as specified by the Governor.

A voting member is limited to serving no longer than two successive three-year terms, with a voting member appointed as a replacement allowed to finish the term of the predecessor and serve two additional successive terms.

Chairperson

The chairperson of the Council is selected by, and serves at the pleasure of, the Governor. The chairperson serves as the liaison between the Council and the SAMHSA. The chairperson presides over all meetings of the Council and assist the Council in effectuating the Act.

Payment of Expenses

The bill requires all expenses related to the Council to be paid from the Hotline Fund.

Member Compensation

The bill allows members of the Council and other persons appointed to subcommittees by the Council to receive reimbursement for meals and travel expenses but members serve without compensation. Legislative members are paid compensation, subsistence allowance, mileage, and other expenses, as provided in KSA 75-3212, when attending meetings of the Council.

Service Provider Contact Information

The bill requires every service provider to submit its contact information to the Council, with wireless telecommunications service providers new to providing service in the state required to submit contact information within three months of first offering wireless telecommunications services in the state.

Annual Council Report

The bill requires the Council to submit an annual report to the House Committee on Energy, Utilities and Telecommunications and the Senate Committee on Utilities, or any successor committees, on or before the first day of each regular session of the Legislature. The bill requires the report to include a detailed description of all expenditures made from 988 fees received by the NSPL Centers.

Sunset

Provisions of the bill relating to the Council expire July 1, 2026.

Point-of-Care Testing; K-TRACS Amendments; SB 200

SB 200 amends the Pharmacy Act of the State of Kansas (Pharmacy Act) to include point-of-care testing for and treatment of certain health conditions (therapy).

The bill also amends provisions of the Prescription Monitoring Program Act (Program Act) to add to the list of information a dispenser may submit to the Prescription Monitoring Program (K-TRACS), amends the list of individuals who may request and receive data from K-TRACS, amends how data are stored outside of K-TRACS, and adds one member to the K-TRACS Advisory Committee for a total of ten members.

Therapies Covered

The bill authorizes a pharmacist to initiate therapy within the framework of new statewide protocols for the following health conditions:

- Influenza;
- Streptococcal pharyngitis; or
- Urinary tract infection.

Statewide Protocols

The bill authorizes the state Collaborative Drug Therapy Management Advisory Committee (Collaborative Committee) to adopt a statewide protocol for each of the conditions listed above. In establishing such statewide protocols, the Collaborative Committee is required to specify:

- The medications or categories of medications included in the protocol for each health condition;
- The training and qualifications required for pharmacists to implement the protocols;
- Requirements for documentation and maintenance of records, including:
    - Patient inclusion and exclusion criteria;
    - Medical referral criteria;
    - Patient assessment tools based on current clinical guidelines;
    - Follow-up monitoring or care plans; and
    - The pharmacist's adherence to the applicable protocols; and
- Communication requirements, including, but not limited to, notification of the patient's personal or primary care provider.

Disciplinary Action

The bill authorizes the State Board of Pharmacy (Board) to deny a license application or renewal or to revoke or suspend the license of a pharmacist if the Board finds the pharmacist has violated the provisions relating to the initiation of therapy or failed to practice within the framework of the protocols established by the Collaborative Committee.

Pharmacy Act Definition

The bill amends the definition of "practice of pharmacy" in the Pharmacy Act to include the initiation of therapy for the conditions listed above.

Program Act Definitions

The bill adds definitions to the Program Act and amends others, as follows:

- Adds "audit trail information" to mean information produced regarding requests for K-TRACS data that the Board and the K-TRACS Advisory Committee use to monitor compliance with the Program Act;
- Adds "delegate" to mean:

- A registered nurse, licensed practical nurse, respiratory therapist, emergency medical responder, paramedic, dental hygienist, pharmacy technician, or pharmacy intern who has registered for access to the K-TRACS database as an agent of a practitioner or pharmacist;
- A death investigator who has registered for limited access to K-TRACS as an agent of a medical examiner, coroner, or another person authorized under law to investigate or determine causes of death; or
- An individual authorized to access the database by the Board in rules and regulations;

- Amends "dispenser" to include a pharmacy as an entity that delivers a scheduled substance or drug of concern to an ultimate user;

- Adds "pharmacy" to mean a premises, laboratory, area, or other place currently registered with the Board where scheduled substances or drugs of concern are offered for sale or dispensed in the state; and

- Adds "program" to mean the prescription monitoring program (K-TRACS).

K-TRACS Information

The bill amends a provision in the Program Act requiring a dispenser to submit to the Board by electronic means information required by the Board regarding each prescription dispensed for scheduled substances and drugs of concern. The bill adds to the list of information a dispenser may submit, as required by the Board:

- The diagnosis code;
- The patient's species code; and
- The date the prescription was sold.

The bill also removes the Board's authority to issue a waiver to a dispenser to allow submission of data by paper or other non-electronic means.

The bill authorizes the Board to enable features and include additional information in the database, including:

- The date or fact of death;

- The dispensation or administration of emergency opioid antagonists, as defined in statute; and

- The data related to an overdose event.

K-TRACS Data

The bill amends the Program Act to include audit trail information as privileged and confidential information not subject to subpoena or discovery in civil proceedings.

The bill amends a provision in the Program Act authorizing the Board to provide data to Board personnel to specify the data provision would be for the purposes of the operation of K-TRACS, in addition to administration and enforcement.

The bill expands the list of individuals who may request and receive data from K-TRACS to include:

- Practitioners, as designated representatives from the Kansas Department of Health and Environment regarding authorized Medicaid program recipients;

- Individuals operating a practitioner or pharmacist impaired-provider program for the purpose of reviewing drugs dispensed to a practitioner or pharmacist enrolled in K-TRACS;

- Delegates of the following individuals currently authorized by the Program Act:

    - Individuals authorized to prescribe or dispense scheduled substances and drugs of concern for the purpose of providing medical or pharmaceutical care for their patients and when an individual is obtaining prescriptions in a manner that appears to be misuse, abuse, or diversion of such substances or drugs; and

    - Medical examiners, coroners, or other individuals authorized under law to investigate or determine cause of death;

    - Individuals or organizations notified by the K-TRACS Advisory Committee;

    - Practitioners or pharmacists conducting research approved by an institutional review board with patient consent for the release of program data; and

    - An overdose fatality review board established by the State of Kansas.

Database Access Qualifications

The bill requires an individual registered for access to the K-TRACS database to notify the Board in writing within 30 calendar days of any action that disqualifies the individual from being authorized to receive K-TRACS data.

The bill requires the State Board of Healing Arts, Board of Nursing, Kansas Dental Board, and Board of Examiners in Optometry to notify the Board in writing within 30 calendar days of any denial, suspension, revocation, or other administrative limitation of a practitioner's license or registration that disqualifies a practitioner from being authorized to receive K-TRACS data.

The bill requires a practitioner or pharmacist to notify the Board within 30 calendar days of any action that disqualifies a delegate from being authorized to receive program data on behalf of a practitioner or pharmacist.

Data Reviews

The bill authorizes the K-TRACS Advisory Committee to notify the Disability and Behavioral Health Services Section of the Kansas Department for Aging and Disability Services for the purpose of offering confidential treatment services if a K-TRACS Advisory Committee review of K-TRACS data indicates an individual may be obtaining prescriptions in a manner that may represent misuse or abuse of scheduled substances and drugs of concern, and the review does not identify a recent prescriber as a point of contact for potential clinical intervention.

The bill replaces the term "controlled" substances with "scheduled" substances in the provisions of the Program Act relating to the K-TRACS Advisory Committee review of K-TRACS data.

The bill requires the K-TRACS Advisory Committee, if a review of information appears to indicate K-TRACS data has been accessed or used in violation of state or federal law, to determine whether a report to the board overseeing the license of such individual is warranted and authorizes the K-TRACS Advisory Committee to make such report.

Data Authorizations

The bill authorizes the Board to provide K-TRACS data to medical care facilities for statistical, research, or educational purposes if all identifying information is removed.

The bill authorizes the Board to block any user's access to the K-TRACS database if the Board has reason to believe access to the data is or may be used by such user in violation of state or federal law.

Information Retention and Storage

The bill prohibits K-TRACS data from being stored outside of the database, with the following exceptions:

- Temporary storage necessary to deliver program data to electronic health records or pharmacy management systems approved by the Board;

- Retention of specific information or records related to a criminal or administrative investigation or proceeding;

- Program data provided to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual practitioners, dispensers, patients, or persons who received prescriptions from dispensers; or

- Board retention of information for purposes of operation of K-TRACS and administration and enforcement of the Program Act or the Uniform Controlled Substances Act.

The bill amends the Program Act to remove:

- A requirement the information and records be destroyed after five years; and

- An exception to the destruction requirement for records a law enforcement or oversight entity has requested to be retained.

K-TRACS Advisory Committee Membership

The bill expands the membership of the K-TRACS Advisory Committee to a total of ten members by adding one member who is a licensed advanced practice provider nominated by either the Board of Nursing or the State Board of Healing Arts.

Threading; SB 348

SB 348 exempts certain threading methods from the definition of cosmetology in law related to the licensure of cosmetologists. [*Note:* The Board of Cosmetology has not issued licenses to individuals or facilities specifically for providing threading services.]

The bill adds the definition of threading to mean a method of temporary hair removal from the face or front of the neck by use of a strand of thread to pull hair from follicles. The bill allows the use of threading to include the use of over-the-counter astringents, gels, powders, tweezers, or scissors incidental to threading but excludes the use of chemicals, electric needles, heat, or any type of wax or the manipulation of thread using teeth.

The bill also adds the method of threading outside a salon setting to a list of topics the Secretary of Health and Environment must address in an informational brochure concerning infection control techniques. The bill also requires, as a condition of exemption from the practice of cosmetology, an individual engaged in threading to complete the self-test part of the informational brochure and keep the brochure and completed self-test available at the location where the individual is threading.

Occupational Therapy; SB 440

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

Occupational Therapists and Referrals

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

The bill creates conditions under which an occupational therapist is required to obtain a referral from an appropriate health care practitioner. An occupational therapist who is treating a

patient without a referral from a health care practitioner is required to obtain a referral from an appropriate health care practitioner prior to continuing treatment if the patient:

- Is not progressing toward documented treatment goals as demonstrated by objective, measurable, or functional improvement after 10 patient visits or in a period of 30 calendar days from the initial treatment visits following the initial evaluation visit; or

- Within one year from the initial treatment visit following the initial evaluation visit, returns to the occupational therapist seeking treatment for the same conditions or injury.

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

- Employees solely for the purpose of education and instruction related to workplace injury prevention;

- The public for the purpose of health promotion, education, and functional independence in activities of daily living; or

- Special education students who need occupational therapy services to fulfill the provisions of their individualized education plan (IEP) or individualized family service plan (IFSP).

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

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

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

The bill defines “healthcare practitioner” to mean:

- A person licensed by the State Board of Healing Arts (BOHA) to practice medicine and surgery, osteopathic medicine and surgery, or chiropractic;

- A “mid-level practitioner” as already defined in statute; or

- A licensed dentist or licensed optometrist in appropriately related cases.

Liability Insurance

The bill requires licensed occupational therapists actively practicing in the state to maintain professional liability insurance coverage as a condition of rendering professional

occupational therapy services. The bill requires BOHA to determine the minimum level of coverage for such insurance through rules and regulations.

Amendments to Occupational Therapy Practice Act

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

Training for Unlicensed Employees Working in Adult Care Homes—Certified Nurse Aide Training; Behavioral Sciences Regulatory Board Licensure Requirements; SB 453

SB 453 amends law concerning the required completion of 40 hours of training in basic resident care skills for unlicensed employees working in adult care homes, who provide direct, individual care to residents, who do not administer medications to residents, and who have not completed or are participating in a course of education and training relating to resident care and treatment approved by the Secretary for Aging and Disability Services (Secretary), referred to as "unlicensed employees" herein. The bill also amends licensure requirements for certain professions licensed by the Behavioral Sciences Regulatory Board (BSRB). Further, the bill adds an exception requiring the BSRB to accept master's degrees from applicants for licensure who graduate from the Masters of Social Work Program at Fort Hays State University, which is currently pending accreditation. The exception applies retroactively and expires on July 1, 2023.

Regarding the training for unlicensed employees, the bill clarifies the 40 hours of training are a part of an approved certified nurse aide (CNA) training course required by the Secretary for unlicensed employees working in an adult care home. The bill specifies who may prepare, administer, and teach the first 40 hours and remaining hours of CNA training, where the training may be conducted, the timeframe for completion of the training, and who may evaluate the skills demonstration to confirm successful completion of the training course. The bill prohibits any unlicensed employees not making progress toward completion of the CNA training required by the Secretary within four months following completion of the first 40 hours of CNA training from providing direct, individual care to residents.

The bill also expands the entities authorized to prepare and administer the training to include a hospital, hospice, Program of All-Inclusive Care for the Elderly (PACE), or qualified course sponsor, and expands the premises at which the training could be conducted to include a hospital, hospice, or PACE.

Training

Required CNA Training

The bill clarifies that any unlicensed employee who has not completed at least 40 hours of CNA training approved by the Secretary, or who is not making progress to complete the course of education and training required by the Secretary as a condition of continued employment by an adult care home within four months following completion of such 40 hours, is prohibited from providing direct, individual care to residents. The 40 hours of training required are a part of an approved CNA training course required by the Secretary for unlicensed employees working in an adult care home, with certain exceptions.

The bill clarifies the licensing agency cannot require unlicensed employees working in an adult care home licensed for the provision of services to people with intellectual disability to successfully complete the 40 hours of CNA training if the Secretary has granted an exception based on a finding that an approved training program for CNAs is in place for such adult care home.

Course supervisor. The bill requires the 40 hours of training and the remaining hours in the CNA training to be performed under the general supervision of a course supervisor. The bill requires the "course supervisor" to be defined in rules and regulations and approved by the Secretary. "Supervision" means the same as defined in the Kansas Nurse Practice Act relating to supervision of delegated nursing procedures.

The bill allows a hospital (as defined in law regarding licensing of hospitals), hospice, or PACE, as well as an adult care home or any other qualified course sponsor as in continuing law, to prepare and administer the 40 hours of training. The training may be conducted on the premises of an adult care home (continuing law), hospital, hospice, or PACE.

Instructor qualifications. Each instructor under the supervision of a course supervisor of the CNA training course is required to be licensed to practice in Kansas and in good standing. The bill defines "in good standing" to include the possession of a license, certificate, or registration that is subject to probation or non-disciplinary conditions, limitations, or restrictions, but does not include a license, certificate, or registration that is revoked, canceled, surrendered, or subject to pending license-related disciplinary action. If the records of the Kansas Department for Aging and Disability Services (KDADS) reflect an individual has a prohibiting offense, such license, certificate, or registration is not considered in good standing. Any license, certificate, or registration subject to disciplinary conditions, limitations, or restrictions remains under such.

Course of Instruction

Continuing law allows the licensing agency to require unlicensed employees working in an adult care home, with certain exceptions, after 90 days of employment to successfully complete an approved course of instruction and examination relating to resident care and treatment as a condition of continued employment by an adult care home. The bill allows a hospital, hospice, or PACE, as well as an adult care home or any other qualified person as in continuing law, to prepare and administer the course of instruction. The course of instruction prepared and administered by these entities may be conducted on the premises of the entity that prepared and is administering the course of instruction.

The bill clarifies the licensing agency may not require unlicensed employees working in an adult care home licensed for the provision of services to people with intellectual disability to successfully complete, after 90 days of employment, an approved course of instruction and examination relating to resident care and treatment as a condition of continued employment if such adult care home has been granted an exception by the Secretary upon a finding by the licensing agency that an appropriate training program for CNAs is in place.

Evidence of training completion. As evidence of successful completion of the training course, the bill requires unlicensed employees to demonstrate competency in a list of skills identified and prescribed by the Secretary. The bill requires the skills demonstration to be evaluated by a registered professional nurse licensed, including multi-state licensure privilege, and in good standing in Kansas, with at least one year of licensed nursing experience providing

care for the elderly or chronically ill in a health care setting approved by the Secretary. "In good standing" has the same meaning as described for an instructor.

State CNA Registry

The bill amends the requirement that the Secretary establish a state registry containing information about unlicensed employees working in nursing homes who provide direct, individual care to residents and who do not administer medications and instead require the state registry contain information about CNAs. The bill clarifies an adult care home is not allowed to use an individual working as a CNA in an adult care home who provides direct, individual care to residents and who does not administer medications unless the facility has checked the state registry concerning such individual.

CNA Refresher Course; Out-of-State CNA

The bill replaces references to an "unlicensed employee" with "CNA" in current statute pertaining to completion of an approved refresher course and to employment in Kansas of a CNA working in an adult care home in another state without requiring an examination if the Secretary determines such other state requires training or examination, or both, at least equal to that required by Kansas.

Direction for Care and Treatment

The bill clarifies that all medical care and treatment must be given under the direction of a person licensed by the Board of Healing Arts to practice medicine and surgery.

Behavioral Sciences Regulatory Board Licensure Requirements

The bill adds to the list of requirements for licensure as a specialist clinical social worker an allowance for applicants who complete additional postgraduate supervised experience as determined by the BSRB in lieu of completing a graduate-level supervised clinical practicum, as required by continuing law.

The bill allows a master social worker, specialist clinical social worker, professional counselor, clinical professional counselor, marriage and family therapist, clinical marriage and family therapist, master's level psychologist, clinical psychotherapist, or psychologist currently licensed in Kansas to be eligible to take a BSRB-approved examination for licensure as an addiction counselor.

Exception for Fort Hays State University Social Work Program

The bill adds a provision specifying an exemption for graduates from the Masters of Social Work Program at Fort Hays State University, which is currently pending accreditation. The bill allows such graduates to receive licensure as a master social worker without additional or alternative requirements, retroactively and until July 1, 2023, when the program anticipates achieving accreditation.

Advanced Practice Registered Nurses; Senate Sub. for HB 2279

Senate Sub. for HB 2279 amends provisions in the Kansas Nurse Practice Act (Act) governing the licensure of advanced practice registered nurses (APRNs) to, among other things, allow an APRN to prescribe drugs without a written protocol as authorized by a responsible physician, require an APRN to maintain malpractice insurance, and require national certification for initial licensure as an APRN. The bill also modifies the definition of "mid-level practitioner" in both the Pharmacy Act of the State of Kansas (Pharmacy Act) and the Uniform Controlled Substances Act to conform with amendments to the written protocol requirements within the Act.

National Certification

The bill requires an applicant for initial licensure as an APRN, on and after July 1, 2023, to have a current APRN certification in such applicant's specific role and population focus granted by a national certifying organization recognized by the Board of Nursing (Board) and whose certification standards are approved by the Board as equal to or greater than the corresponding standards established by the Board. The bill requires an APRN whose initial licensure was granted prior to July 1, 2023, to submit evidence of such certification to the Board upon renewal.

Prescriptive Authority

The bill removes language in the Act to permit an APRN to prescribe drugs pursuant to a written protocol as authorized by a responsible physician. The bill instead allows an APRN to prescribe durable medical equipment and prescribe, procure, and administer any drug consistent with such licensee's specific role and population focus. The bill specifies any drug that is a controlled substance must be prescribed, procured, or administered in accordance with the Uniform Controlled Substances Act. The bill also prohibits an APRN from prescribing any drug that is intended to cause an abortion.

The bill requires an APRN, in order to prescribe controlled substances, to comply with federal Drug Enforcement Administration requirements related to controlled substances.

Malpractice Insurance

The bill requires an APRN to maintain malpractice insurance coverage as a condition of rendering professional clinical services as an APRN in Kansas and provide proof of insurance at the time of licensure and renewal of license. The bill specifies the requirements related to malpractice insurance coverage do not apply to an APRN who:

- Practices solely in employment for which the APRN is covered under the Federal Tort Claims Act or the Kansas Tort Claims Act;
- Practices solely as a charitable health care provider under the Kansas Tort Claims Act; or
- Is serving on active duty in the U.S. Armed Forces.

Rules and Regulations

The bill specifies in a continuing requirement for the Board to adopt rules and regulations that the rules and regulations must be consistent with the Act applicable to APRNs.

Definitions

The bill amends the definition of "mid-level practitioner," as it appears in the Pharmacy Act and the Uniform Controlled Substances Act, to mean, among other things, a licensed APRN who has authority to prescribe drugs under the above-described provisions of the bill.

Other Provisions

The bill requires the Board to consider the scope and limitations of advanced practice nursing in accordance with state laws when defining the role of APRNs.

The bill clarifies the provisions of the Act that the bill amends do not supersede the requirements outlined in law related to the operation and licensure of an abortion facility.

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

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

Adult Care Homes

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

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

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

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

KDADS is allowed to issue a temporary authorization for a person not previously licensed, certified, or registered by the state or any other state, and such persons may serve only individuals requiring minimal supervision or assistance with daily living activities. Nursing

facilities are required to ensure that any person with a temporary authorization is competent to perform and execute certain duties specified by the bill.

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

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

Health Care Professionals

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

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

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

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

- Clarify that the subsection does not authorize a health care professional to practice a profession that is not authorized by Kansas law;

- Specify that such practice must be for the purposes of preparing for, responding to, or mitigating any effect of COVID-19;

- Require health care professionals practicing under the subsection to notify the appropriate Kansas regulatory body of such practice, within seven calendar days of initiating practice in Kansas, on a form and in a manner prescribed by the regulatory body; and

- State that such health care professionals shall be subject to all rules and regulations applicable to the practice of the licensed profession in Kansas and considered a licensee for the purposes of the applicable practice act administered by the regulatory body.

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

Amendments to Uniform Controlled Substances Act and Definition of Marijuana; HB 2540

HB 2540 amends the Uniform Controlled Substances Act (Act) and the definition of "marijuana" in the Act and the Kansas Criminal Code (Code). The amended definition of marijuana exempts U.S. Food and Drug Administration (FDA)-approved drug products containing an active ingredient derived from marijuana. The bill also makes technical changes.

Definitions

The bill amends the definition of "marijuana" to exempt FDA-approved drug products in the Act and in the definition sections of the Code pertaining to crimes involving controlled substances. In response to this definition change, the bill removes from the Kansas Schedule IV the FDA-approved drug Epidiolex to mirror the federal de-scheduling of this drug.

Uniform Controlled Substances Act

Schedule I

The bill adds two opiates, one opioid derivative, and one compound containing hallucinogenic substances to Schedule I. The bill also makes spelling and substance number updates, changes "ring" to "group" in certain cannabinoid classes, and adds a "syncan" class.

Schedule II

The bill adds to Schedule II one opioid metabolite of oxymorphone and oxycodone, one intravenous opioid medication for severe acute pain, and one opioid analgesic.

Schedule IV

The bill adds to Schedule IV one short-acting sedation medication, an insomnia medication, an antidepressant used to treat depression and postpartum depression, and a medication for treatment of sleepiness due to narcolepsy or sleep apnea.

Schedule V

The bill adds to Schedule V a medication for treatment of adult seizures and a drug used to treat migraines without aura.

HOUSING

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

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

Kansas Housing Investor Tax Credit Act

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

Purpose

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

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

Definitions

The bill defines the following terms:

- "Director" means the Director of Housing of the Kansas Development Finance Authority;
- "Cash investment" means money or money equivalent in consideration for qualified securities as approved by the Director;
- "Corporation" means the Kansas Housing Resources Corporation (KHRC);
- "Qualified housing project" means a project for the construction of single-family residential dwellings, including manufactured housing, modular housing, multi-family residential dwellings, or buildings that are eligible as a project under HITCA;
- "Qualified housing project" does not mean a project eligible for low-income housing tax credits under state or federal law; and

- "Qualified securities" means a cash investment through any form of financial assistance, including equity, debt, or bank loans that have been approved by the Director.

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

Program Established

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

Application

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

- The name and address of the project builder or developer, and the names of all principals or management;

- Information required by the Director if the project builder or developer is seeking tax credits for such builder's or developer's cash investment in the project;

- A project plan, including a description of the project, timeline, housing to be constructed, intended market, costs, anticipated pricing, and any other relevant information the Director may require;

- An economic impact statement for the project;

- A description of all project financing, the amount of any tax credits requested, and earliest year the tax credits may be claimed;

- The amount, timing, and projected use of the proceeds to be raised from qualified investors;

- The names, addresses, and taxpayer identification numbers (TINs) of all investors who may qualify for the tax credit, with the requirement that such list be updated when necessary; and

- Any additional information the Director may require.

Considerations

The Director will be required to consider whether a project:

- Has community support and governing body support of the city or county where the project is located;

- Will enhance the community's ability to attract new businesses or expand existing businesses by providing housing directly for employees or make housing significantly more available, or meet other significant housing needs to make the community attractive to new or expanding businesses or their employees;

- Has the financial support, management, planning, and market to be successful;

- Has had a housing needs analysis or survey provided either by the project builder or developer or by the project's county or city governing body that supports proceeding with the proposed project;

- Has met all other requirements of the HITCA; and

- Has met such other requirements of the Director as adopted in rules and regulations.

Project Agreement

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

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

- Reporting progress and financial data, including investor information;
    - The project builder or developer is obligated to notify the Director in a timely manner of any changes in project qualifications or investor eligibility to claim a tax credit;

- The right of access to the project and financial records of the project builder or developer;

- The provision of information to be included in the economic development incentive program information database, pursuant to continuing law;

- Repayment requirements upon loss of designation as described in HITCA; and

- Any additional terms and conditions required by the Director.

Investment Reporting Requirements

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

- The name, address, and TIN of each qualified investor who has made a cash investment in qualified securities in the project and has received tax credits for this investment during any and all preceding years;

- The amounts of the cash investments by each qualified investor and a description of the qualified securities issued in consideration of such cash investments;

- The name, address, and TIN of each person the original qualified investor transferred tax credits to; and

- Any additional information as required by the Director.

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

Reimbursement of Costs, Liability, Rules and Regulations

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

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

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

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

Income Tax Credit

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

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

The tax credit may be claimed by:

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

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

Tax Credit Maximums

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

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

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

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

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

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

Date of Cash Investment Acquisition

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

Transferable Tax Credit

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

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

Loss of Designation

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

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

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

Annual Report

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

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

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

Director Review

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

Kansas Affordable Housing Tax Credit Act

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

Definitions

The bill defines the following terms:

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

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

Tax Credit Authorized

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

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

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

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

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

Pass-through Entities

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

- Any such person is allocated or allowed any portion of any federal tax credit with respect to the qualified project;

- Allocation of the credit under the terms of the agreement has substantial economic effect within the meaning of Section 704(b) of the federal "IRC"; or

- Any such person is deemed a partner for federal income tax purposes, if the partner or member would be considered a partner or member under applicable state law governing such entity and has been admitted as a partner or member on or prior to the date for filing the qualified taxpayer's tax return, including any amendments to such tax return, with respect to the year of the credit.

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

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

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

Restrictive Covenants

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

- Be maintained and operated as a qualified development; and

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

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

Credits Carried Forward

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

Eligibility Determination

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

Credits Subject to Recapture

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

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

Rules and Regulations

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

Annual Report

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

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

- The number of qualified developments allocated credits during the allocation year and the total number of units supported by each development;

- A description of each qualified development, including the geographic location, household type, any specific demographic and income information about

residents served, and the rents or set-asides authorized for each development; and

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

Historic Kansas Act

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

Older Structures Tax Credit

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

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

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

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

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

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

requires the assignee and assignor to enter into a written agreement, including terms and conditions of the agreement.

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

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

Historic Structures Tax Credit – Amendments

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

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

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

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

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

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

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

Kansas Rural Home Loan Guarantee Act

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

Definitions

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

- "Financial institution" means any bank, trust company, savings bank, credit union, savings and loan association, or any other lending institution that is approved by the KHRC;

- "Loan" means a transaction with a financial institution to provide financing for the construction or renovation of a single-family home in a rural county; and

- "Rural county" means any county in Kansas with a population of less than 10,000, as certified to the Secretary of State on July 1 of the preceding year.

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

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

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

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

Loan Agreements, Backing by the Fund; Appraised Value

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

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

- Land and building purchases;
- Renovation and new construction costs;
- Equipment and installation costs;
- Pre-development costs that may be capitalized;
- Financing;

- Capitalized interest during construction; and
- Consultant fees that do not include staff costs.

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

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

Reporting to the Legislature

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

Residential Real Estate Appraisals in Rural Counties

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

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

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

The bill defines the following terms:

- "Financial institution" means a bank, national banking association, savings and loan association, savings bank, trust company, credit union, finance company, or other lending institution; and

- "Rural county" means any county in Kansas with a population of less than 10,000, using census data certified to the Secretary of State pursuant to KSA 11-201.

Kansas Rural Housing Incentive District Act Amendments

The bill amends the Kansas Rural Housing Incentive District Act (RHID Act) to expand the use of bond proceeds and other funds under the Act to include residential renovation of the second or higher floors of buildings more than 25 years old within economically distressed urban areas, regardless of the population of the city or county containing the economically distressed urban area.

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

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

Child Day Care Services Tax Credit

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

INSURANCE

Pharmacy Benefits Manager Licensure Act; Maximum Allowable Cost Pricing and Appeals; House Sub. for SB 28

House Sub. for SB 28 enacts law and amends requirements requiring registration of pharmacy benefits managers (PBMs) with the Commissioner of Insurance (Commissioner) to instead require licensure under the Pharmacy Benefits Manager Licensure Act (PBM Licensure Act). The bill establishes new licensure, administrative, and enforcement requirements on PBMs; maintains regulation under Chapter 40, Article 38 of the *Kansas Statutes Annotated*; and adds a new section to the PBM Licensure Act. The bill also amends provisions pertaining to maximum allowable cost (MAC) pricing and the appeals process.

On and after January 1, 2023, a person could not perform, act, or do business in Kansas as a PBM unless the person has a valid license issued by the Commissioner pursuant to the PBM Licensure Act.

PBM Licensure Act (Section 1)

Disciplinary Action

The bill will allow a PBM's license to be revoked, suspended, or limited, or the licensee to be censured or placed under probationary conditions, or an application for a license or reinstatement to be denied, upon a finding of the existence of any of the following grounds:

- The applicant or licensee committed fraud or misrepresentation in applying for or securing an original, renewal, or reinstated license;
- The licensee has violated any lawful rule and regulation promulgated by the Commissioner or violated any lawful order or directive of the Commissioner previously entered by the Commissioner;
- The PBM has engaged in a fraudulent activity that constitutes a violation of state or federal law;
- The licensee has failed to furnish to the Commissioner, or the Commissioner's investigators or representatives, any information legally requested by the Commissioner;
- The PBM has been determined by the Commissioner to be in violation of or in noncompliance with state or federal law; or
- The PBM has failed to timely submit a renewal application and the information required under KSA 40-3824. In lieu of a denial of a renewal application, the Commissioner could permit the PBM to submit to the Commissioner a corrective action plan to correct or cure any deficiencies.

PBM Licensure Act – Act Designation

The bill renames KSA 40-3821 through KSA 40-3828 from the Pharmacy Benefits Registration Act to the Pharmacy Benefits Manager Licensure Act, adds the section of the bill regarding PBM disciplinary action the PBM Licensure Act, and requires, on and after January 1, 2023, any PBM performing, acting, or doing business in Kansas to hold a valid license issued by the Commissioner pursuant to this act.

The bill also amends law, previously applying to the registration of PBMs (licensed under provisions of this bill), to state a license issued in accordance with this act is nontransferrable.

PBM Licensure Act – Definitions

The bill amends definitions associated with the regulation of PBMs to add definitions for the terms "act," "department," "ERISA," "health benefit plan," "health insurer," and "maximum allowable cost or MAC." "Department" is defined to mean the Insurance Department (Department).

PBM Licensure Act – Application; Application Fee; Information Deemed Confidential and Privileged

Application form. The bill updates law requiring registration with the Commissioner to reflect licensure and requires this new information to be included on the application form:

- Name, address, and telephone number of the PBM;
- Name, address, phone number, email address, and official position of the employee who will serve as the primary contact for the Department;
- A copy of the PBM's corporate charter, articles of incorporation, or other charter document;
- A template contract, which the bill requires to include a dispute resolution process, that ultimately involves an independent fact finder between:
    - The PBM and the health insurer; or
    - The PBM and the pharmacy or a pharmacy's contracting agent; and
- A network adequacy report on a form prescribed by the Department through rules and regulations.

The bill also modifies language in a continuing requirement to provide information pertaining to the name, address, official position, and professional qualifications of individuals responsible for the conduct of the affairs of the PBM to remove from the list of individuals any other person who exercises control or influence over the affairs of the PBM.

Application fee. The bill increases the nonrefundable application fee from $140 (registration) to $2,500 (licensure).

Material change of application information; review of application by Commissioner. The bill requires the licensee to inform the Commissioner of any material change to the application form and related submitted information within 90 days of such change. Failure to timely inform the Commissioner of a material change could result in a penalty in the amount of $500. The bill also requires, within 90 days of receipt of a completed application, the network adequacy report, and the applicable license fee, the Commissioner to review the application and issue a license if the applicant is deemed qualified. If the Commissioner determines the applicant is not qualified, the Commissioner is required to notify the applicant and specify the reason for denial.

Confidential and privileged information. The bill provides that all documents, materials, or other information and copies in the possession or control of the Department or any other governmental entity that are obtained by or disclosed to the Commissioner or any other person in the course of an application, examination, or investigation made pursuant to this act shall be confidential by law and privileged; shall not be subject to any open records, freedom of information, sunshine, or other public record disclosure laws; and shall not be subject to subpoena or discovery. The bill further specifies that the confidentiality provisions apply only to the disclosure of confidential documents outlined in the bill (*e.g.,* information disclosed in the course of an application, examination, or investigation) by the Department or other governmental entity and these provisions should not be construed to create any privilege in favor of any other party. The provision pertaining to confidentiality and disclosure will expire on July 1, 2027, unless the Legislature reviews and reenacts this provision pursuant to KSA 45-229 (Kansas Open Records Act, legislative review of exceptions to disclosure) prior to July 1, 2027.

PBM Licensure Act – Licensure Expiration and Renewal; Fees

The bill maintains the (registration) expiration date of March 31 each year, providing a PBM license will expire on March 31 and permitting annual renewal at the request of the licensee. The bill increases the renewal fee from $140 (registration) to $2,500 (licensure), increases the penalty fee for failure to pay the renewal fee by the prescribed date from $140 (registration) to $2,500 (licensure), and requires any person performing pharmacy benefits management service to obtain a license as a PBM no later than January 1, 2023, in order to continue to do business in Kansas.

PBM Licensure Act – Rules and Regulations

The bill requires the Commissioner to adopt, amend, and revoke all necessary rules and regulations no later than July 1, 2023.

PBM Licensure Act – Violations of the PBM Licensure Act; Appeals Hearing; Penalties and Fines

The bill authorizes the Commissioner, if the Commissioner has reason to believe that a PBM has been engaged in this state or is engaging in this state in activity that violates the PBM Licensure Act, to issue and serve on a PBM a statement detailing the charges of violation and to conduct a hearing in accordance with the provisions of the Kansas Administrative Procedure Act.

If, after a hearing, the Commissioner determines that the PBM subject to the charges has violated the PBM Licensure Act, the Commissioner would be permitted to, in the exercise of discretion, order any one or more of the following:

- Payment of a monetary penalty of not more than $1,000 for each and every act or violation. The bill specifies the total of the monetary penalties for such violations cannot exceed $10,000;
    - If the PBM knew or reasonably should have known that such manager was in violation of this act, payment of a monetary penalty of $5,000 for each and every act or violation. The total of the monetary penalties for these violations could not exceed $50,000 in any six-month period;
- If the PBM knew or reasonably should have known such person was in violation of this act, the suspension or revocation of the PBM's license; or
- The assessment of any costs incurred as a result of conducting the administrative hearing authorized by provisions of this bill against the PBM. The bill defines "costs," as used in this section, to include witness fees, mileage allowances, any costs associated with reproduction of documents that become part of the hearing record, and expenses of making a record of the hearing.

The bill further provides that if the deadline for filing a petition for review has expired and no petition has been filed, the Commissioner may reopen and modify or set aside any portion or the entirety of any administrative order issued under provisions of the bill. The bill also specifies that the reopening of any such order may occur if, in the Commissioner's opinion, the conditions of fact or law have changed to warrant such action or if such an action is warranted in the public interest.

The bill also modifies the fine associated with failure to register with the Commissioner ($500) to a fine associated with failure to be licensed and sets this fine at $5,000 for the period of time the PBM is found to be in violation.

PBM Licensure Act – Licensure Fund

The bill renames the PBM Registration Fund as the Pharmacy Benefits Manager Licensure Fund (Fund) and establishes the Fund in the State Treasury, requires administration by the Commissioner for costs associated with licensing, and provides for expenditures from this Fund. All moneys deposited in the Fund will continue to be credited to the Fund.

PBM – Maximum Allowable Cost

MAC Pricing and Definitions

The bill amends law relating to MAC pricing and reimbursements to pharmacies. The bill updates the definition of "maximum allowable cost or MAC" to assign the definition established in the PBM Licensure Act. The bill also creates these definitions:

- "Pharmacy benefits plan or pharmacy benefits program" means a plan or program that pays for, reimburses, covers the cost of, or otherwise provides for pharmacist services to individuals who reside in or are employed in this state; and

- "Wholesaler" means a person or entity that sells and distributes prescription pharmaceutical products, including, but not limited to, a full line of brand name, generic, and over-the-counter pharmaceuticals and that offers regular and private delivery to a pharmacy.

MAC List Requirements; Updates; Appeals Process

The bill amends law pertaining to the MAC list and reimbursement appeals process for network pharmacies to require the establishment of a reasonable administrative appeal procedure to allow a pharmacy or pharmacy's contracting agent to challenge MAC for a specific drug as:

- Not meeting requirements of the bill's provisions pertaining to MAC list; and
- Being below the cost at which the pharmacy may obtain the drug.

The bill requires the following to be included in any administrative appeals procedure:

- A dedicated telephone number and email address or website for the purpose of submitting administrative appeals; and

- The ability to submit an administrative appeal directly to the PBM regarding the pharmacy benefits plan or program or through a pharmacy service administrative organization.

The bill clarifies a continuing provision pertaining to filing of an administrative appeal by a network pharmacy not later than 10 business days after the fill date to authorize the network pharmacy's contracting agent as well as a network pharmacy to file such an appeal.

The bill also requires the PBM request only the following information to determine a MAC administrative appeal:

- Prescription number;
- Provider's name;
- National Drug Code (NDC) used during the filing of the claim;
- Date of the fill;
- Reimbursement amount; and
- Such other information related to the appealed claim as required by contract.

The bill also updates provisions pertaining to the denial of the appeal to require the PBM to provide, in addition to the NDC number from a national or regional wholesaler operating in Kansas meeting certain criteria, the reason for the denial. Provisions in this section (MAC list and appeals process) will apply to PBMs, which include the PBM for the State Health Care Benefits Program (the State Employee Health Plan).

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

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

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

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

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

Investments in Preferred Stock

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

Investments in Equity Interests

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

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

- Removes language prohibiting a Kansas-domiciled life insurance company from investing in more than 5.0 percent of the outstanding equity interests of the

above-described business entities. The bill retains language limiting the insurance company's investment in the outstanding equity interests of such business entities to no more than 2.0 percent of the insurance company's admitted assets, determined on the basis of the cost of such equity interests to the insurance company at the time of purchase; and

- Retains language pertaining to the valuation of an equity interest owned by an insurance company that is obligated under an unexpired written call option.

Unlawful Delegation of Authority

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

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

SB 448 amends the state Unfair Trade Practice Law to exempt additional practices from those practices considered to be unfair or deceptive acts or practices in the business of insurance that relate to unfair discrimination and rebates. The bill amends the Uniform Insurance Agents Licensing Act to clarify that allowed rebating practices are not grounds for disciplinary action against an applicant or license holder seeking or issued a license under such act. The bill also amends law relating to fire and casualty insurance rates to replace the term "agent" with "producer." [*Note:* "Rebating" is the term used to encompass the offering or providing of any rebate, discount, abatement, credit, or reduction of premium named in an insurance policy, any special favor or advantage in the dividends or benefits to accrue, or other valuable consideration not specified in the policy, as an inducement to the sale of a policy.]

Practices Exempted from Definition of Discrimination or Rebating

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

- Engaging in an arrangement that violates Section 106 of the Bank Holding Company Act Amendments of 1972, as interpreted by the Board of Governors of the Federal Reserve System or Section 5(q) of the Home Owners' Loan Act [*Note:* these acts generally prohibit a bank from conditioning the availability or price of one product on the requirement that the customer also obtain another product from the bank or an affiliate of the bank];

- The offer or provision by insurers or producers, by or through employees, affiliates, or third-party representatives, of value-added products or services at no or reduced cost when such products or services are not specified in the policy of insurance if the product or service:

- Relates to the insurance coverage; and
- Is primarily designed to satisfy one or more of nine conditions listed in the bill;
- The cost to the insurer or producer offering the product or service to any given customer is reasonable in comparison to such customer's premiums or insurance coverage for the policy class;
- If the insurer or producer is providing the product or service offered, the insurer or producer must ensure that the customer is provided with contact information, upon request, to assist the customer with questions regarding the product or service;
- The availability of the value-added product or service must be based on documented objective criteria and offered in a manner that is not unfairly discriminatory;
- If the insurer or producer does not have sufficient evidence but has a good-faith belief that the product or service is primarily designed to satisfy one or more of the nine listed conditions, the insurer or producer may provide the product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for not more than one year. Notice of such a pilot or testing program must be provided to the Commissioner and an insurer or producer may proceed unless the Commissioner objects within 21 days of the notice; and
- The Commissioner of Insurance (Commissioner) is authorized to adopt rules and regulations when implementing the permitted practices to ensure consumer protection; and

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

Disciplinary Action on License

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

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

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

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

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

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

Payment and Reimbursement of Dental Services; HB 2386

HB 2386 establishes requirements and restrictions for the payment and reimbursement of dental services.

Defined Terms

The bill defines the following terms:

- "Contracting entity" means any person or entity that enters into a direct contract with a provider for the delivery of dental services in the ordinary course of business, including a third-party administrator and a dental carrier;

- "Covered person" means an individual who is covered under a dental benefits or health insurance plan that provides coverage for dental services;

- "Credit card payment" means a type of electronic funds transfer in which a dental benefit plan or such plan's contracted vendor issues a single-use series of numbers associated with the payment of dental services performed by a dentist and chargeable to a predetermined dollar amount and in which the dentist is responsible for processing the payment by a credit card terminal or internet portal. "Credit card payment" includes a virtual or online credit card payment where no physical credit card is presented to the dentist, and the single-use credit card expires upon payment processing;

- "Dental benefit plan" means a benefits plan that pays or provides dental expense benefits for covered dental services and is delivered or issued for delivery by or through a dental carrier on a stand-alone basis. A "dental benefit plan" includes coverage for dental benefits integrated or otherwise incorporated into the terms of coverage of a health benefits plan;

- "Dental carrier" means a dental insurance company, dental service corporation, dental plan organization authorized to provide dental benefits, or a health benefits plan that includes coverage for dental services;

- "Dental services" means services for the diagnosis, prevention, treatment, or cure of a dental condition, illness, injury, or disease. "Dental services" does not include services delivered by a provider that are billed as medical expenses under a health benefits plan;

- "Dental service contractor" means any person who accepts a prepayment from or for the benefit of any other person or group of persons as consideration for providing to such person or group of persons the opportunity to receive dental services at times in the future as such services may be appropriate or required. "Dental service contractor" does not include a dentist or professional dental corporation that accepts prepayment on a fee-for-service basis for providing specific dental services to individual patients for whom such services have been prediagnosed;

- "Dentist" means any dentist licensed or otherwise authorized in this state to provide dental services;

- "Dentist agent" means a person or entity that contracts with a dentist establishing an agency relationship to process bills for services provided by the dentist under the terms and conditions of a contract between the agent and dentist, including contractual relationships that permit the agent to submit bills, request consideration, and receive reimbursement;

- "Electronic funds transfer payment" means a payment by any method of electronic funds transfer other than through the automated clearing house network, as codified in the Code of Federal Regulations;

- "Health insurance plan" means any:
  - Hospital or medical insurance policy or certificate;
  - Qualified high-deductible health plan;
  - Health maintenance organization subscriber contract;
  - Contract providing benefits for dental care, whether such contract is pursuant to a medical insurance policy or certificate;
  - Stand-alone dental plan;
  - Health maintenance provider contract; or
  - Managed health care plan;

- "Health insurer" means any entity or person that issues a health insurance plan;

- "Provider" means an individual or entity that, acting within the scope of licensure or certification, provides dental services or supplies defined by the dental benefit plan. "Provider" does not include a physician organization or physician hospital organization that leases or rents the physician organization's or physician hospital organization's network to a third party;

- "Provider network contract" means a contract between a contracting entity and a provider that specifies the rights and responsibilities of the contracting entity and provides for the delivery and payment of dental services to an enrollee; and

- "Third party" means a person or entity that enters into a contract with a contracting entity or with another third party to gain access to dental services or contractual discounts of a provider network contract. "Third party" does not include any employer or other group for whom the dental carrier or contracting entity provides administrative services.

Conditions for Third-Party Access to Provider Network Contracts

Under the bill, a contracting entity is permitted to grant a third party access to a provider network contract, or a provider's dental services or contractual discounts provided pursuant to a provider network contract, provided:

- At the time the contract is entered into, sold, leased, or renewed, or when there are material modifications to a contract relevant to granting access to a provider network contract to a third party, the dental carrier will allow any provider that is part of the carrier's provider network to choose not to participate in third-party access to the contract or to enter into a contract directly with the health insurer that acquired the provider network. Opting out of lease agreements does not require dentists to cancel or otherwise end a contractual relationship with the original carrier that leases a provider network; and

- A contracting entity is permitted to grant a third party access to a provider network contract, or a provider's dental services or contractual discounts provided pursuant to a provider network contract, if:

- The contract specifically states that the contracting entity is permitted to enter into an agreement with third parties, allowing those third parties to obtain the contracting entity's right and responsibilities as if the third party were the contracting entity, or if the contracting entity is a dental carrier, the provider chose to participate in third-party access at the time the provider network contract was entered into or renewed;
- The third-party access provision is clearly identified in any provider contract, including notice that the contract grants third-party access to the provider network and that the dentist has the right to choose and not participate in third-party access;
- The third party accessing the contract agrees to comply with all of the contract's terms, including such third party's obligation concerning patient steerage;
- The contracting entity identifies to the provider, in writing or electronic form, all third parties in existence as of the date the contract is entered into, sold, leased, or renewed;
- The contracting entity identifies all third parties in existence in a list on its website that is updated at least once every 90 days;
- The contracting entity requires a third party to identify the source of the discount on all remittance advices or explanations of payment under which a discount is taken, except that this paragraph shall not apply to electronic transactions mandated by the Health Insurance Portability and Accountability Act of 1996;
- The contracting entity notifies the third party of the termination of a provider network contract not later than 30 days from the termination date with the contracting entity; and
- A third party's right to a provider's discounted rate ceases as of the termination date of the provider network contract. The contracting entity shall make available a copy of the provider network contract relied on in the adjudication of the claim to a provider within 30 days of a request from the provider.

Under the bill, no provider is bound by or required to perform dental treatment or services under a provider network contract granted to a third party in violation of the bill.

The bill specifies the provisions of third-party access do not apply to:

- Access to a provider network contract that is granted to a dental carrier or an entity operating in accordance with the same brand licensee program as the contracting entity or to an entity that is an affiliate of the contracting entity. The contracting entity must provide a list of such affiliates on its website; or
- A provider network contract for dental services provided to beneficiaries of state-sponsored health programs, including medical assistance and the Children's Health Insurance Program.

The bill specifies the provisions for third-party access shall not be waived by contract, and any contractual arrangement in violation of such provisions or that purports to waive the requirements of such provisions will be null and void and unenforceable.

Methods of Payment

The bill prohibits dental benefit plans from containing restrictions on methods of payment to a dentist from the dental benefit plan, such plan's contracted vendor, or health maintenance organization in which the only acceptable payment method is a credit card payment.

The bill provides that if initiating or changing payments to a dentist using electronic funds transfer payments, including virtual credit card payments, a dental benefit plan, such plan's contracted vendor, or health maintenance organization will:

- Notify the dentist if any fees are associated with a particular payment method; and
- Advise the dentist of the available methods of payment and provide clear instructions to the dentist as to how to select an alternative payment method.

The bill prohibits a dental benefit plan, such plan's contracted vendor, or health maintenance organization that initiates or changes payments to a dentist through the automated clearinghouse network, from charging a fee solely to transmit the payment to a dentist unless the dentist has consented to such a fee. A dentist's agent is permitted to charge reasonable fees when transmitting an automated clearinghouse network payment related to transaction management, data management, portal services, and other value-added services in addition to the bank transmittal.

The bill prohibits provisions related to method of payment to be waived by contract. Any contractual arrangement in violation of such provisions or that purports to waive the requirements of such provisions would be null and void and unenforceable.

The bill also provides that any violations of the provisions of the bill are subject to enforcement by the Commissioner of Insurance.

Commissioner of Insurance—Administrative Hearings; HB 2537

HB 2537 amends a statute governing hearings by the Commissioner of Insurance (Commissioner) to add a provision allowing a person subject to any order, as defined in the Kansas Administrative Procedure Act (KAPA), issued by the Commissioner to request a hearing on such order. If such a request is made, the bill requires the Commissioner to conduct a hearing in accordance with KAPA provisions.

Captive Insurance Law—TEFFI Insurance Companies; HB 2547

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

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

Certificate of Authority

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

- Authorize the TEFFI insurance company to provide contracts of suretyship or credit insurance where the obligee or insured is:
  - An affiliated TEFFI;
  - An affiliated fidfin trust; or
  - Any other affiliated company;

- Provide the TEFFI insurance company with authorization to insure its affiliated companies that are investors in an investment fund against liability, loss, or damage (*i.e.,* fraud, theft, or conversion of assets by an investment fund manager and breach of an obligation of a transferor, assignor, or investor in an investment fund);
  - If such coverages are not included within the classes outlined in KSA 40-1102, such coverages will be deemed included, and the Commissioner of Insurance (Commissioner) will be required to assign these coverages to an appropriate line of business for reporting purposes;

- List events that will be considered, for the purpose of a policy or product offered by a TEFFI insurance company issue, as "fortuitous events" (*i.e.,* any action taken by an investment fund manager that affects the economic value of an investor's interest in an investment fund in response to the attempted transfer of such interest in an investment fund to an affiliated fidfin trust); and

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

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

- The principal place of business for a TEFFI insurance company may be located in the same or shared office premises with an affiliated TEFFI or other TEFFI insurance company;

- Any person who serves as a member of the board of directors of an affiliated TEFFI or other affiliated company may concurrently fulfill the Kansas residency requirement contained in the TEFFI Act (KSA 9-2306) and may:

    - Serve on the board of a directors of a TEFFI insurance company that is organized as a corporation or serve as a manager of a TEFFI that is organized as a limited liability company; and

    - Fulfill the applicable Kansas residency requirements of the Captive Insurance Act (KSA 40-4306(d));

- A TEFFI insurance company is permitted to enter into service contracts with any other TEFFI insurance company, an affiliated TEFFI, or affiliated companies that provide for services to be performed:

    - For the TEFFI insurance company, including insurance companies that operate with or without direct employees; or

    - By the TEFFI insurance company;

- Personnel who perform services for a TEFFI insurance company, either as employees of the company or pursuant to service contracts, are permitted to concurrently perform services for any other TEFFI insurance company, an affiliated TEFFI or an affiliated company thereof, either as employees or pursuant to service contracts; and

- A TEFFI insurance company is not be required to employ, engage, or contract more than one employee in Kansas to provide services for such company or to facilitate any examinations required by the Captive Insurance Act.

Payment-in-kind policies; financial statements. The bill also establishes criteria for TEFFI insurance companies that issue payment-in-kind policies, as defined below. Among the requirements, the bill provides:

- If the TEFFI insurance company issues payment-in-kind policies that expressly require it to hold a sufficient amount of in-kind assets to meet the full obligation of such payment-in-kind policies, the insurance company must hold in-kind assets in a total amount determined to be actuarially prudent to meet its obligations to make claim payments, but in no event may this amount be less than the sum of the aggregate obligations of and for such payment-in-kind policies;

    - If the TEFFI insurance company issues payment-in-kind policies that do not expressly require a certain amount of in-kind assets to be held, the bill requires the company to hold in-kind assets to the extent the company determines to be actuarially prudent and confirmed by a third-party actuary to meet the company's obligation to make claims payments;

- A TEFFI insurance company is required to satisfy the claims under a payment-in-kind policy by delivering to the qualified policyholder in-kind assets or a combination of in-kind assets pursuant to the schedules attached to the policy. The bill provides for the types of in-kind assets and combination of such assets permitted;

- Any in-kind assets held pursuant to the bill's provisions are required to be counted as part of the reserves, capital, and surplus of a TEFFI insurance company and reported as for the primary and predominant business activity of the writing of insurance or the reinsuring of risks, except that the TEFFI insurance company meeting the capital requirements in the Captive Insurance Act (40-4304) is not required to hold any other assets so long as such in-kind assets are sufficient to meet its obligations to make claim payments under payment-in-kind policies;

    - All revenue and income generated by the in-kind assets, whether realized or unrealized, will be deemed income derived from the business activity of the writing of insurance or the reinsuring of risks underwritten by the TEFFI insurance companies. The bill further provides for the reporting of net income and net loss in statutory financial statements. All payment-in-kind assets required to be held by the TEFFI insurance company are required to be reported on the company's statutory balance sheet (satisfying the company's payment-in-kind obligations); and

    - A TEFFI insurance company is required to report any required items in a statutory financial statement in the segment reporting section of the footnotes prepared in accordance with generally accepted accounting principles (GAAP) and is also required to include in its complete statutory financial statements' footnote reporting other information prepared in accordance with GAAP;

- Any insurance company, regardless of its jurisdiction, is permitted to hold equity interests in an affiliated TEFFI and may utilize such equity interests as in-kind assets when issuing payment-in-kind policies to such affiliated TEFFI or other qualified policyholder; and

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

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

- A TEFFI insurance company or other insurance company organized under incorporation provisions of the Captive Insurance Act (KSA 40-4306) that has been issued a certificate of authority will be deemed an "insurance company" as defined in KSA 40-222c. An insurance company described under the bill's provisions is considered to have as its primary and predominant business activity the writing of insurance or the reinsuring of risks underwritten by insurance companies and is subject to the supervision of the Commissioner;

- A TEFFI insurance company that has been issued a certificate of authority will be permitted, subject to compliance with provisions relating to conditions under which insurance may be written (KSA 40-214), to do business in any other state or territory of the United States;

- A TEFFI policy is permitted to include a provision that such policy shall be governed by, and construed in accordance with, the laws of the state of Kansas and such policy provision shall control over any contrary provision of state law regarding conflict of laws;

- A TEFFI policy is permitted to also include a provision that any suit, action, or proceeding arising out of or relating to such policy shall be brought in any district court of Kansas or the U.S. District Court for the district of Kansas and such provision shall be fully enforceable; and

- A TEFFI policy issued in connection with an affiliated fidfin trust or fidfin transaction will be required to respect the form, treatment, and character of such affiliated trust or transactions under the laws of this state notwithstanding the treatment or characterization of such transactions under GAAP or for tax purposes.

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

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

Definitions—Captive Insurance Act (Section 2)

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

- “Affiliated technology-enabled fiduciary financial institution” to mean a TEFFI;

- “In-kind asset” to mean:

    - Any loan, financing, or extension of credit, including to an affiliated fidfin trust, originated by a TEFFI;
    - One or more equity interests in one or more investment funds, each an interest in an investment fund, or one or more equity interests in one or more TEFFIs;
    - Any loan, financing, or extension of credit secured by the pledge of equity of one or more interests in an investment fund or the cash flow derived as a result;

- Any other assets that serve as collateral securing such loans, equity, or debt financing or extension of credit described in this definition; and
- Any beneficial interests in trusts that own assets described in this definition that are held by an insurance company for the purpose of enabling such insurance company to meet its obligations to make claim payments under payment-in-kind policies by delivering such assets;

- "Payment-in-kind policy" to mean a policy that, along with applicable schedules, is required to be in writing and which satisfies the following conditions:
  - Is issued to a qualified policyholder;
  - Is issued by a TEFFI insurance company or an insurance company organized in a jurisdiction other than Kansas;
  - Provides that such insurance company has the option, in such company's sole discretion, to make claim payments, in whole or in part, in cash, or in the form of in-kind assets rather than cash pursuant to schedules attached to the policy as required by this definition's provisions, and agreed to in writing by the qualified policyholder;
  - Provides for such payment-in-kind policy to be fully enforceable with such policy's terms and this definition's provisions;
  - May provide for such payment-in-kind policy or provisions relating to in-kind assets and payments thereof to be governed by, and construed in accordance with, the laws of the state of Kansas and such policy or provisions shall control over any contrary provision of state law regarding conflict of laws and any such provision shall be fully enforceable;
  - May provide that any suit, action, or proceeding arising out of or relating to such payment-in-kind policy shall be brought in any district court of this state or the U.S. District Court for the District of Kansas, and any such provision shall be fully enforceable;
  - May be a contract of suretyship or credit insurance;
  - Contains one or more schedules to such payment-in-kind policy that sets out a description of the specific in-kind assets that the insurance company may deliver to the qualified policyholder to make claim payments as agreed to in writing by the qualified policyholder;
  - May include a copy of the governing documents in effect at the time of issuance of such payment-in-kind policy of any legal entity that is the issuer of or obligor under such in-kind assets;
  - Includes a provision that the qualified policyholder agrees the insurance company has no obligation to provide, and the qualified policyholder has no additional rights to, any further disclosure regarding the in-kind assets and shall not rely on any other disclosures provided by the insurance company and the provisions within this definition;
  - Includes a provision that the qualified policyholder agrees such insurance company has no obligation to make claim payments in any form other than the in-kind assets specified in such schedules;

- Requires the qualified policyholder to acknowledge that such insurance company has no obligation to deliver to such qualified policyholder any underlying assets in the chain of ownership below the in-kind assets specified in such schedules; and
- Requires the qualified policyholder to acknowledge that:
  - Such qualified policyholder has no recourse against the insurance company with respect to any in-kind assets other than those in-kind assets scheduled and attached to such payment-in-kind policy; and
  - Any such recourse shall be limited to only those scheduled in-kind assets that the insurance company, in its sole discretion, makes available to such qualified policyholder as an in-kind payment in response to a claim initiated by such qualified policyholder;

- "Technology-enabled fiduciary financial institution insurance company" to mean a pure captive insurance company that:
  - Is related to a TEFFI by common ownership; and
  - Owns, directly, indirectly, or beneficially, at least 5.0 percent of the equity interests of a TEFFI, including any equity interests in such TEFFI's holding company.

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

Other definitions established by the bill include those for affiliated fidfin trust, common ownership, fidfin trust, interest in an investment fund, investment fund, investor in an investment fund, manager, qualified policyholder, technology-enabled fiduciary financial institution, technology-enabled fiduciary financial institution policy, and technology-enabled fiduciary financial institution policyholder. The bill also amends the definition of "affiliated company."

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

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

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

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

- *Qualified policyholder* – the privacy in any court proceeding shall be protected if the TEFFI insurance company so petitions the court. Upon the filing, any information including, but not limited to, an instrument, inventory, statement, or verified report produced by the TEFFI insurance company regarding a policy issued to a qualified policyholder or payment-in-kind assets held by the TEFFI insurance company to satisfy claims, all payment-in-kind policies, all relevant petitions, and all court orders thereon, would be sealed upon filing and not made part of the public record of the proceeding;

    - Such petition would be available to the court, the Commissioner, the TEFFI insurance company, their attorneys, and to other persons as the court may order upon a showing of good cause; and

- *Affiliated fidfin trust or alternative asset custody account holder* – the privacy in any court proceeding shall be protected if the acting trustee, custodian, trustor, or other beneficiary so petition the court. Upon the filing, any information, including the instrument, inventory, statement filed by any trustee or custodian, annual verified report of the trustee or custodian, and all relevant petitions, and all court orders thereon, would be sealed upon filing and not made part of the public record of the proceeding;

    - Such petition would be available to the court, the trustor, the trustee, the custodian, any beneficiary, their attorneys, and to other persons as the court may order upon a showing of good cause.

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

The bill amends provisions in the Captive Insurance Act pertaining to the use of the word "captive" into the name of every captive insurance company organized in Kansas to allow for an exception from this naming requirement as provided in the bill's provisions pertaining to the certificate of authority for a TEFFI insurance company.

Investment Requirements; In-kind Assets (Section 5)

The bill amends provisions in the Captive Insurance Act pertaining to investment requirements to allow insurance companies organized in a jurisdiction other than Kansas and Kansas TEFFI insurance companies to hold in-kind assets in accordance with provisions of this bill.

The bill further provides any such in-kind assets required to be held shall be counted as part of the reserves, capital, and surplus of such insurance companies required for the primary and predominant business activity of the writing of insurance or the reinsuring of risks underwritten by TEFFI insurance companies. The bill also permits a TEFFI insurance company to hold equity interests in an affiliated TEFFI.

Risk-based Capital Instructions; Reinsurance Law Update; HB 2564

HB 2564 amends the effective date specified in the Insurance Code for the risk-based capital (RBC) instructions promulgated by the National Association of Insurance Commissioners (NAIC) for property and casualty companies and for life insurance companies from December 31, 2020, to December 31, 2021. The bill also amends the NAIC Credit for Reinsurance Model Regulation codified in statute in 2021 to correct a paragraph citation.

JUDICIARY

Kansas Uniform Directed Trust Act; SB 141

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

Definitions (New Section 2)

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

- "Directed trust" means a trust for which the terms of the trust grant a power of direction;

- "Power of direction" means a power over a trust granted to a person by the terms of the trust to the extent the power is exercisable while the person is not serving as a trustee;

- "Directed trustee" means a trustee that is subject to a trust director's power of direction, including a power over the investment, management, or distribution of trust property or other matters of trust administration. The term excludes the powers described in a power of appointment described elsewhere in the UDTA;

- "Trust director" means a person that is granted a power of direction by the terms of a trust to the extent the power is exercisable while the person is not serving as a trustee. The person is a trust director whether or not the terms of the trust refer to the person as a trust director and whether or not the person is a beneficiary or settlor of the trust; and

- "Terms of a trust" means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or established by other evidence that is admissible in a judicial proceeding. "Terms of the trust" also may mean the trust provisions as established, determined, or amended by a trustee or trust director in accordance with applicable law, court order, or a nonjudicial settlement agreement under the UTC.

Applicability (New Section 3)

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

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

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

Governing Law (New Section 4)

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

Power of Appointment (New Section 5)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Duties Not Required (New Section 11)

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

Cotrustee Duty and Liability (Section 12)

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

Breach of Trust Action (New Sections 13 and 14)

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

Jurisdiction (New Section 15)

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

Rules (New Section 16)

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

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

Other Provisions (New Sections 17 and 18)

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

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

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

- Updates an reference to the IRS Code of 1986 to reflect the version in effect on July 1, 2022, contained in the definition of "power of withdrawal";

- Amends the definition of "terms of a trust" to be consistent with the definition created in the UDTA;

- Amends provisions governing default and mandatory rules to reflect the duty of a trustee to act in good faith is subject to those duties described in related sections of the UDTA;

- States, in provisions pertaining to a settlor's powers in revocable trusts, a trustee may follow a direction of the settlor that is contrary to the terms of the trust while a trust is revocable; and

- Amends law related to a cotrustee's performance of a trustee's function and the requirement of a trustee to exercise reasonable care regarding a breach of trust to make each subject to the provisions governing cotrustees in the UDTA.

Venue for Agency Adoptions; HB 2075

HB 2075 amends a provision governing the venue of agency adoptions in the Kansas Adoption and Relinquishment Act to allow such adoption proceedings to take place in a county where the Department for Children and Families or subcontracting agency has an office when the State or a department of the State is the adoption agency.

Specialty Court Programs; Douglas County Law Library Board of Trustees; Senate Sub. for HB 2361

Senate Sub. for HB 2361 creates law requiring the Kansas Supreme Court (Court) to adopt rules for establishment and operation of specialty court programs within the state. The bill allows the chief judge of a judicial district to establish a specialty court program in accordance with the rules adopted by the Court. The bill also amends law governing the composition of the Board of Trustees of the Douglas County Law Library.

Specialty Court Programs

Definition

The bill defines "specialty court" to mean a district court program that uses therapeutic or problem-solving procedures to address underlying factors that may be contributing to a person's involvement in the judicial system, including, but not limited to, mental illness or drug, alcohol, or other addictions. Procedures may include treatment, mandatory periodic testing for prohibited drugs or other substances, community supervision, and appropriate sanctions and incentives.

Specialty Court Funding Advisory Committee

The bill establishes the Specialty Court Funding Advisory Committee (Committee) within the Judicial Branch.

The bill requires the Committee to:

- Evaluate resources available for assessment and treatment of people assigned to specialty courts or for the operation of specialty courts;
- Secure grants, funds, and other property and services necessary or advantageous to facilitate the operation of specialty courts;
- Recommend to the Judicial Administrator the allocation of resources among the various specialty courts operating within the state; and
- Recommend legislation and rules to aid in development of specialty courts.

Advisory Committee membership. The bill provides that the Committee will consist of the following members:

- The Chairperson of the House Committee on Judiciary or designee;
- The Chairperson of the Senate Committee on Judiciary or designee;
- The Chairperson of the Legislative Budget Committee or designee;

- One member of the Legislature from the minority party appointed jointly by the Minority Leader of the House of Representatives and the Minority Leader of the Senate;

- Five members appointed by the Chief Justice of the Court (Chief Justice), including one prosecutor and one criminal defense attorney; and

- The following ex officio, nonvoting members:

    - One member appointed by the Secretary of Corrections;
    - One member appointed by the Secretary for Aging and Disability Services; and
    - One drug and alcohol addiction treatment provider appointed by the Kansas Sentencing Commission.

Membership terms. The bill specifies the following membership terms:

- Three members appointed by the Chief Justice would be appointed for a term of three years;

- Two members appointed by the Chief Justice would be appointed for a term of two years; and

- The ex officio, nonvoting members would be appointed for a term of two years.

Vacancies and appointment date. The bill further specifies that members will serve until a qualified successor is appointed and vacancies will be filled in the same manner as provided by the bill. The bill requires members to be appointed prior to August 1, 2022.

Committee chairperson, technical assistance. The bill requires the Chief Justice to designate the chairperson of the Committee and specifies that the Office of Judicial Administration (OJA) may provide technical assistance to the Committee.

Committee member compensation. The bill specifies that all members of the Committee who are not judicial members shall receive compensation, travel expenses, and subsistence expenses or allowances as provided in continuing law. Judicial members will receive reimbursement for travel expenses and subsistence expenses or allowances as provided in continuing law.

Specialty Court Funding

The bill provides that any judicial district, local government, or the Judicial Branch is not prohibited from directly applying for, receiving, and retaining funding to facilitate the operation of specialty courts. The bill does not require funds received by a judicial district or local government to be remitted to the State Treasurer.

Specialty Court Resources Fund. The bill creates the Specialty Court Resources Fund (Fund) in the State Treasury, to be administered by the Judicial Administrator. The bill directs all expenditures from the Fund to be for the purpose of operating specialty court programs established pursuant to the bill, including administrative costs related to such programs. The bill specifies that all expenditures from the Fund will be made in accordance with appropriation acts upon warrants of the Director of Accounts and Reports issued pursuant to vouchers approved by the Judicial Administrator or designee.

The bill further specifies the funds acquired through appropriations, grants, gifts, contributions, and other public or private sources that are designated for specialty court operations will be remitted to the State Treasurer in accordance with continuing law and, upon receipt of each remittance, the State Treasurer will deposit the entire amount into the State Treasury to the credit of the Fund.

Completion of a Specialty Courts Program

The bill provides that a sentence may be reduced or modified for a person sentenced to participate in a specialty courts program who successfully completes the program. The bill further clarifies that the bill shall not be construed to authorize a judge to impose, modify, or reduce a sentence below the minimum sentence required by law.

The bill makes a corresponding change to a sentencing statute to allow a judge to order a person who has been found guilty of a crime to participate in the specialty court program, as provided for in the bill.

Expungement

The bill provides that, subject to certain exceptions in continuing law, any person who has completed the requirements of a specialty court program established pursuant to the bill may petition the district court for expungement of the conviction and related arrest records. The bill allows the court to waive all or part of the docket fee imposed for filing such a petition.

The bill amends law that directs a court to order a petitioner's arrest record, conviction, or diversion expunged and to expunge such records if no felony proceeding is presently pending or being instituted against the petitioner. Continuing law also requires that the circumstances and behavior of the petitioner warrant expungement and the expungement is consistent with the public welfare.

Technical Amendment

The bill makes a technical amendment to specify certain restitution provisions of continuing law are procedural in nature and are to be applied retroactively.

Douglas County Law Library Board of Trustees

The bill amends law governing the composition of the Board of Trustees of the Douglas County Law Library (Board).

Under previous law, the Board was composed of all the district judges of the Douglas County District Court and at least two attorneys. The attorney members were elected for two-year terms by a majority of attorneys residing in Douglas County. [*Note:* These provisions applied to all counties except Johnson and Sedgwick counties.]

The bill instead applies to Douglas County the continuing law governing the composition of Johnson and Sedgwick counties' law libraries' boards of trustees. Under these provisions, the Board will include two judges of the district court, appointed by a consensus of all judges of the district court, and three members of the county's bar association, appointed pursuant to the bar association's bylaws for two-year terms.

Judicial Branch Surcharge; HB 2541

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

The bill also removes provisions allowing expenditures to be made from the Judicial Branch Docket Fee Fund for educational and training services and programs and allowing fees to be charged for such services and programs.

Habeas Corpus Motions and Notice of Release of Sexually Violent Predators; HB 2607

HB 2607 amends time limitations for *habeas corpus* motions under KSA 60-1507 and amends the Kansas Sexually Violent Predator Act (SVPA) regarding the notice of release or anticipated release of sexually violent predators (SVPs).

Time Limitations for Habeas Corpus *Motions*

Under continuing law, such motions must be filed within one year of:

- The final order of the last Kansas appellate court to exercise jurisdiction on a direct appeal or the termination of such appellate jurisdiction; or

- The denial of a petition for *writ of certiorari* to the U.S. Supreme Court or issuance of such court's final order following granting such petition.

The bill adds that such motions must be filed within one year of the decision of the district court denying a prior motion under the section, the opinion of the last appellate court in this state to exercise jurisdiction on such prior motion, or the denial of the petition for review on such prior motion, whichever is later.

The bill provides that this amendment would not bar actions under this section that are brought within one year of the bill's effective date.

Notice of Release or Anticipated Release of Sexually Violent Predators

Under continuing law, when it appears a person meets the criteria to be determined a SVP, the agency with jurisdiction is required to give written notice to the Attorney General and a multidisciplinary team (as defined in the statute) 90 days prior to the release or anticipated release of such person. The bill requires that on and after July 1, 2023, and prior to July 1, 2024, such notice be given 90 days to two years prior to such release or anticipated release. On and after July 1, 2024, the bill requires notice to be given two years prior to such release or anticipated release.

The bill adds the following non-exclusive list of situations in which such notice must be given:

- Anticipated release from total confinement of a person convicted of a sexually violent offense, except as soon as practicable following readmission to prison of a person returned for less than 90 days for revocation of postrelease supervision;

- Release of a person charged with a sexually violent offense who has been determined to be incompetent to stand trial;

- Release of a person who has been found not guilty of a sexually violent offense by reason of mental disease or defect; or

- Release of a person who has been found not guilty of a sexually violent offense by reason of mental disease or defect, and the jury answers in the affirmative to a special question regarding criminal intent.

Detention and Secure Confinement of Sexually Violent Predators

The bill amends a statute governing the process for a court to determine probable cause that a person is a SVP to provide an exception to the rule that, upon a probable cause finding, the court must direct the person to be taken into custody and detained in county jail until such time a determination is made on whether the person is subject to confinement under the SVPA. The bill provides the transport and detention to county jail will not occur when the person is subject to secure confinement at a facility operated by the Secretary of Corrections until such confinement ends. In addition, the bill adds a provision to this section to allow the court to secure such confined person's attendance at the proceeding by directing the sheriff of the county where the proceeding will be held to take the person into physical custody and detain in the county jail for such time reasonable to secure the person's attendance at the proceeding. The bill specifies that nothing in the statute creates rights regarding appearance at proceedings or the amount of time detained in county jail for the person alleged to be a SVP.

The bill also changes a notice requirement for the probable cause hearing to replace timing based upon when the person is taken into custody with timing based upon the filing of a petition under the SVPA, removes references to "detainer" or "detained," adjusts the definition of "agency with jurisdiction" to reflect the other amendments made by the bill, and makes clarifying amendments.

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

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

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

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

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

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

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

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

LAW ENFORCEMENT

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

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

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

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

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

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

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

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

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

Kansas Law Enforcement Training Center—KDOC Employees; SB 419

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

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

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

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

The bill amends the definition of "police officer or law enforcement officer" in the Act by inserting a reference to special agents of the KDOC and by removing a reference to special investigators of the Juvenile Justice Authority (JJA) in the list of persons included in such terms. The bill further amends the definition to remove a reference to other employees of the JJA and specifies the list of excluded persons includes any employee of the KDOC other than special agents. [*Note:* Executive Reorganization Order No. 42 abolished the JJA and transferred the jurisdiction, powers, functions, and duties of the JJA and the Commissioner of Juvenile Justice to the KDOC and the Secretary, effective July 1, 2013.]

Sexual Abuse; Assault; Collection of Evidence; Written Policies; HB 2228

HB 2228 creates and amends law related to sexual assault evidence kits and collection of evidence related to abuse or sexual assault.

Law Enforcement Agency Written Policy

The bill creates law requiring all law enforcement agencies in Kansas to adopt a written policy requiring submission of all sexual assault kits that correspond to a law enforcement report of sexual assault to the Johnson County Sheriff's Office Criminalistics Laboratory, Sedgwick County Regional Forensic Science Center, the Kansas Bureau of Investigation (KBI), or another accredited forensic laboratory. The bill requires the policy to ensure such submission occurs within 30 business days from collection of the kit for examination and to include a procedure to ensure the examination results are received by the investigating officer.

All law enforcement agencies in Kansas are required to collaborate with the county or district attorneys in the appropriate jurisdiction regarding the contents of the policies required by the bill, and the bill requires each law enforcement agency's policy to be made available to all law enforcement officers employed by the agency and to be available for public inspection during normal business hours. The bill requires the policies to be adopted and implemented by all law enforcement agencies in Kansas prior to January 31, 2023.

Collection of Evidence

The bill amends a statute related to child advocacy centers to require such centers to be recognized by the National Children's Alliance and to allow such centers to provide on-site evidence collection for physical, mental, emotional, or sexual abuse, including sexual assault evidence collection, or to provide referrals for off-site collection of such evidence.

The bill amends a statute governing examination of victims of sexual offenses to allow such examinations by child advocacy centers or by any other facility licensed or operated by a physician, physician assistant, or registered nurse licensed under Kansas' public health statutes, and to require such examinations be conducted using KBI sexual assault evidence kits or similar kits approved by the KBI, for the purposes of gathering evidence of any such crime. A provision requiring the Kansas Department of Health and Environment to cooperate with the KBI in establishing procedures for gathering such evidence is amended to make the KBI solely responsible for establishing such procedures.

The bill amends a provision in the statute regarding retention of sexual assault kits to clarify that unreported sexual assault kits are to be sent to the KBI and that the retention period applies to all unreported sexual assault kits connected to a report of sexual assault. The bill extends the required retention period for such kits from 5 years to 20 years.

The bill adds a provision to the statute to require each sexual assault kit received by the Johnson County Sheriff's Office Criminalistics Laboratory, Sedgwick County Regional Forensic Science Center, or the KBI to be examined if the kit is required to be released to a law enforcement agency in connection with a report of sexual assault.

Finally, the bill adds definitions for "unreported sexual assault kit" and "sexual assault," moves a provision allowing a minor to consent to examination, and adds references to child advocacy centers and other facilities to apply procedural requirements.

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

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

Fingerprinting for Criminal History Record Check—Rap Back Programs

The bill creates law requiring an applicant, employee, or volunteer subject to a criminal history record check to provide to the requesting authorized entity written consent to obtain such person's fingerprints to conduct a criminal history record check and participate in the Rap Back Program for the purpose of determining suitability or fitness for a permit, license, employment, or volunteer service. [*Note:* As defined by the bill, "authorized entity" means an agency or entity with authorization under state or federal law to conduct a fingerprint-based criminal history record check, and "rap back" means the state or federal system that enables an authorized entity to receive ongoing notifications of criminal history record updates for individuals whose fingerprints are enrolled.]

The bill requires an authorized entity to notify each such person that fingerprints shall be retained by the Kansas Bureau of Investigation (KBI) and the Federal Bureau of Investigation for

all current and future purposes and uses authorized for fingerprint submission and when fingerprints will be enrolled in the Rap Back Program.

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

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

The bill limits availability of fingerprints and records relating to fingerprints acquired by the KBI to only the authorized entities entitled to obtain the information and prohibits KBI employees from disclosing any records of or related to fingerprints acquired in the performance of duties under the bill to any person not authorized to receive the information pursuant to state or federal law. The bill prohibits a person acquiring the records of or relating to fingerprints, or any information concerning any individual, from disclosing such information to any person who is not authorized to receive such information, and any intentional disclosure of such information is a class A nonperson misdemeanor.

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

Surveillance by Kansas Department of Wildlife and Parks Employees

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

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

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

Definitions

The bill defines the following terms:

- "Surveillance" means the installation and use of electronic equipment or devices on private property, including, but not limited to, the installation and use of a

tracking device, video camera, or audio recording device, to monitor activity or collect information related to the enforcement of the laws of the State; and

- "Tracking device" has the same definition as in continuing law in the Kansas Code of Criminal Procedure, which defines the term to mean an electronic or mechanical device that permits a person to remotely determine or track the position or movement of a person or object; it includes, but is not limited to, a device that stores geographic data for subsequent access or analysis and that allows for real-time monitoring of movement.

Jurisdiction of Law Enforcement Officers

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

Powers and Authority of Law Enforcement Officers Without Statewide Jurisdiction

The bill amends a statute governing jurisdiction of various law enforcement officers to provide a new subsection consolidating and clarifying the ability of law enforcement officers who do not otherwise have statewide jurisdiction to exercise the powers and authority of law enforcement officers anywhere when:

- A request for assistance has been made by law enforcement officers from the area for which assistance is requested;

- The officer is in fresh pursuit of a person;

- Transporting persons in custody to an appropriate facility, wherever such facility may be located; and

- Investigating a crime that occurred within the law enforcement officer's jurisdiction, with appropriate notification to and coordination with a local law enforcement agency with jurisdiction where the investigation is to be conducted.

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

Powers and Authority of Law Reinforcement Officers Outside Their Jurisdiction

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

Search Warrant Time Limitations

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

Disclosure of CINC Information to Law Enforcement Agencies

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

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

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

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

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

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

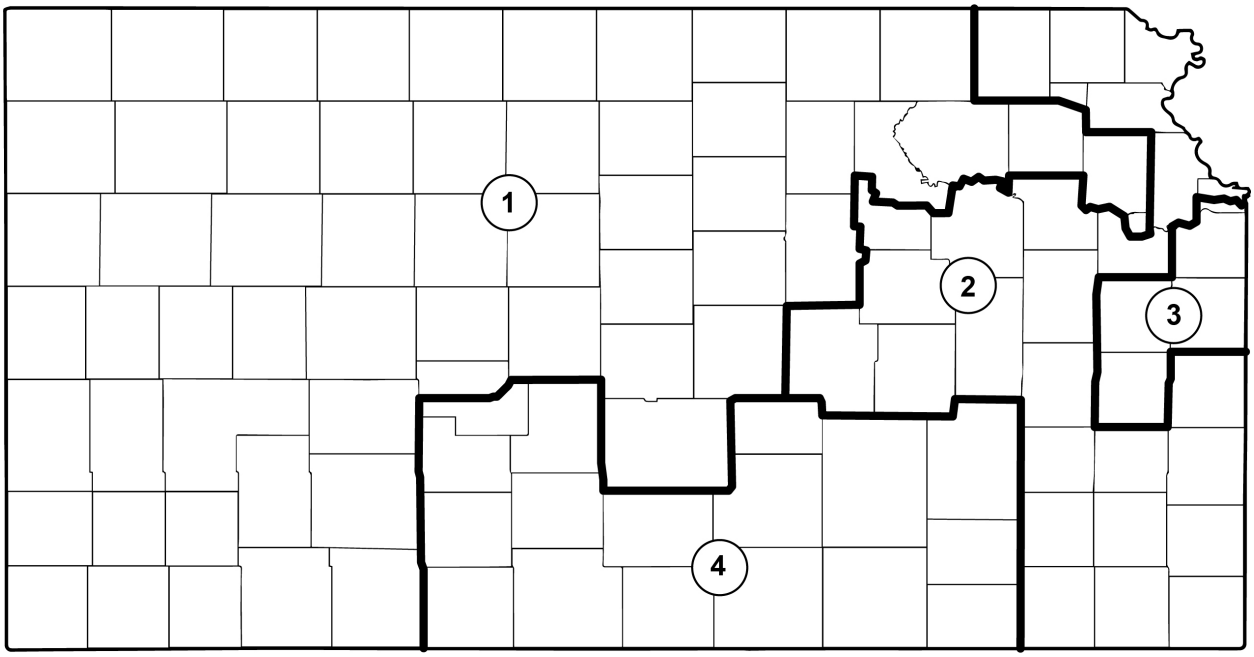
Ad Astra 2 Congressional Redistricting; Sub. for SB 355

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

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

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

Ad Astra 2 Congressional Districts



Redistricting: State Senate, House of Representatives, and Board of Education Districts; Sub. for SB 563

Sub. for SB 563 redraws the State's 40 Senate districts (map name: Liberty 3), 125 House of Representatives districts (map name: Free State 3F), and 10 State Board of Education (BOE) Districts (map name: Apple 7) using data obtained from the 2020 Census. [*Note:* BOE map Apple 7 is based on the districts contained in Senate map Liberty 3.]

The ideal population for each Senate district is 73,447, and the ideal population for each House district is 23,503. The guidelines adopted by the Senate and House committees on Redistricting state the range of deviation for legislative districts should not exceed plus or minus 5.00 percent, equivalent to a deviation of 3,672 persons for Senate districts and 1,175 persons

for House districts. As required by law, each BOE district is constructed using four whole, contiguous Senate districts. The ideal population for each BOE district is 293,788.

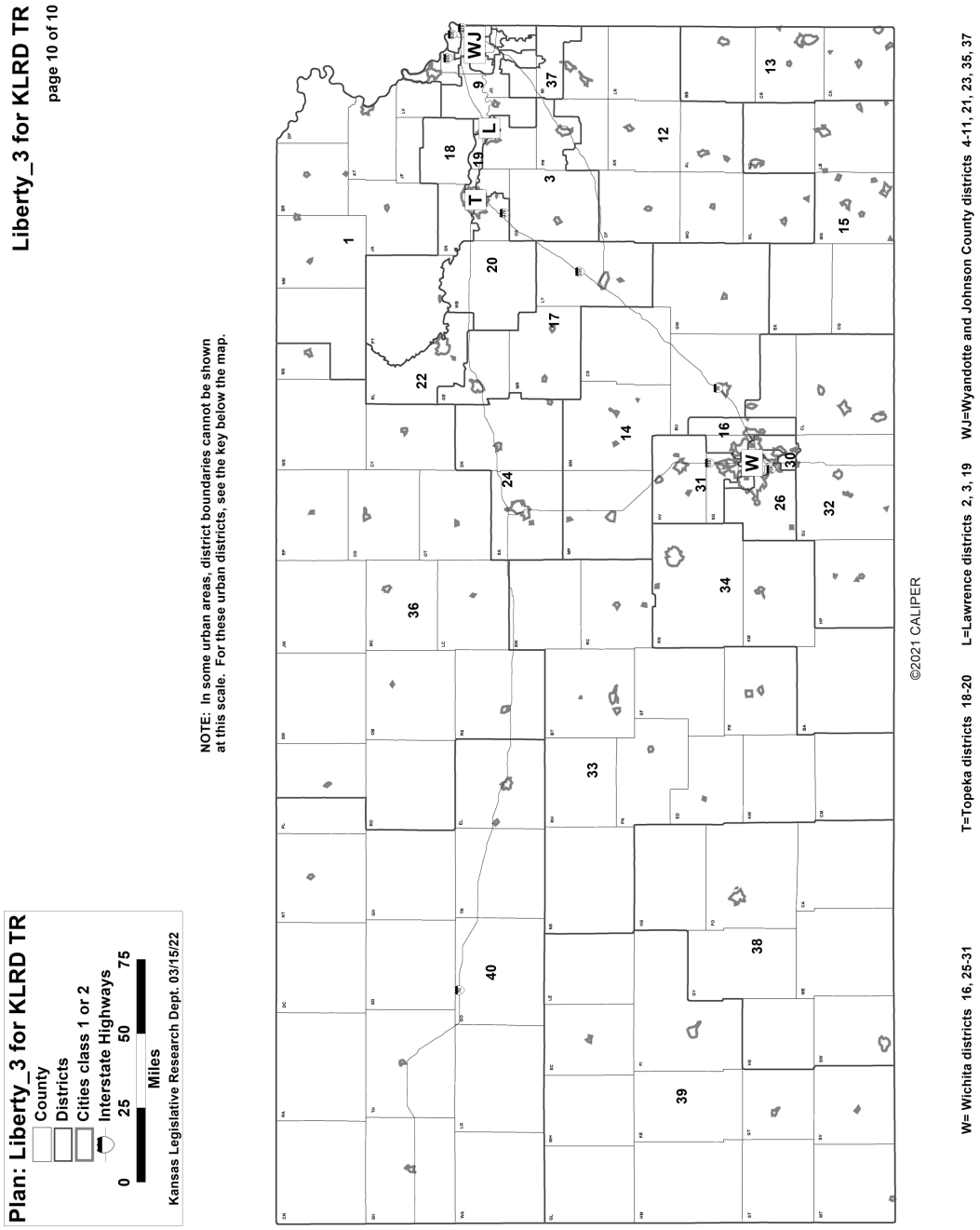
The deviation range of the map Liberty 3 is minus 3.00 percent (2,498 persons) to plus 3.95 percent (2,898 persons). The deviation of Free State 3F is minus 3.94 percent (926 persons) to plus 3.59 percent (843 persons). The deviation range of the map Apple 7 is minus 1.33 percent (3,916 persons) to plus 0.59 percent (1,724 persons).

Districts were built using counties, precincts, and census blocks.

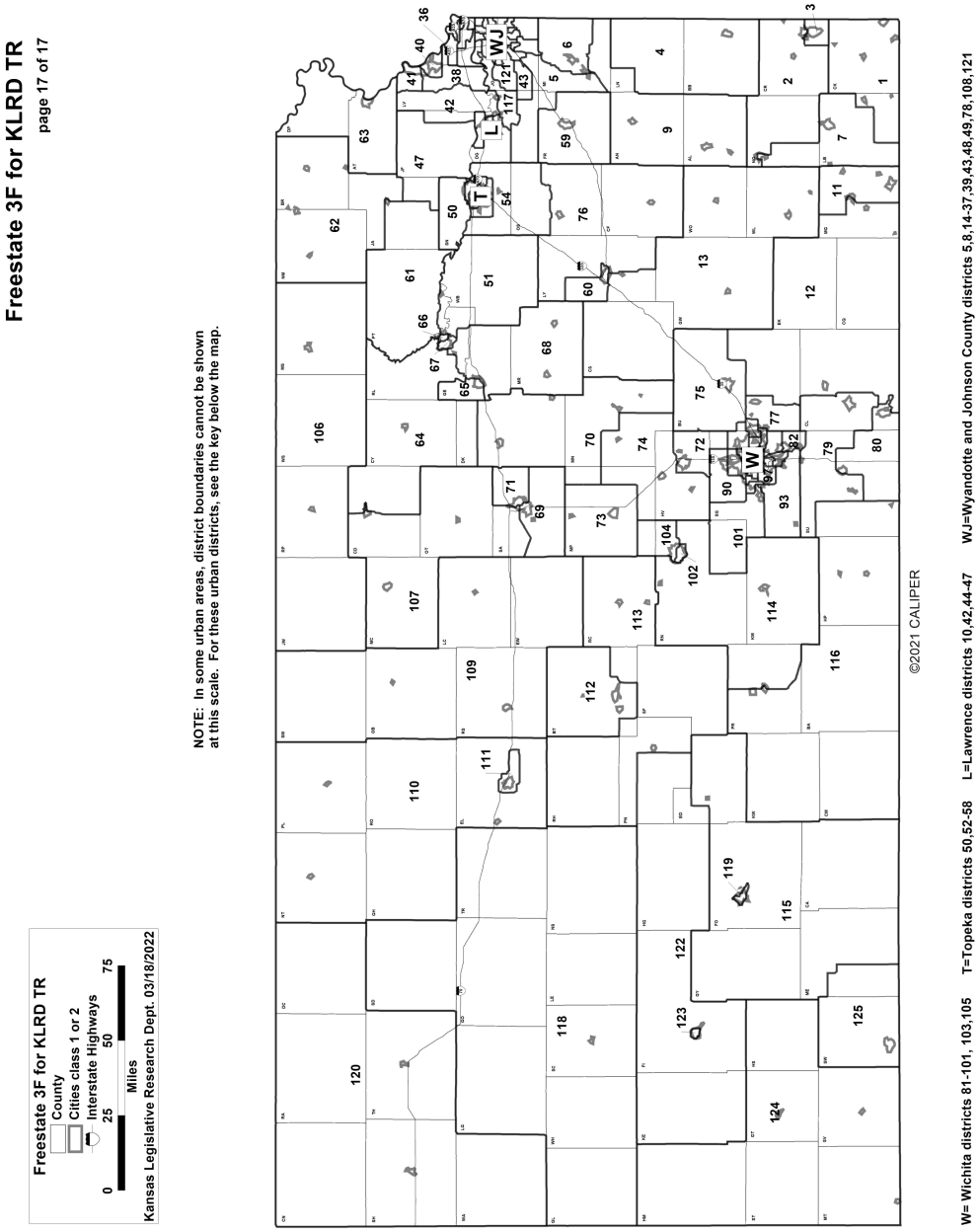
The bill requires the Attorney General to certify to the Secretary of State that the Supreme Court has entered a judgment that 2022 Sub. for SB 563 is a valid reapportionment of state Senate districts. The Secretary of State, upon receipt of the notice of certification, is required to have such notice of certification published in the *Kansas Register*.

Maps Liberty 3, Free State 3F, and Apple 7 are included on the following pages.

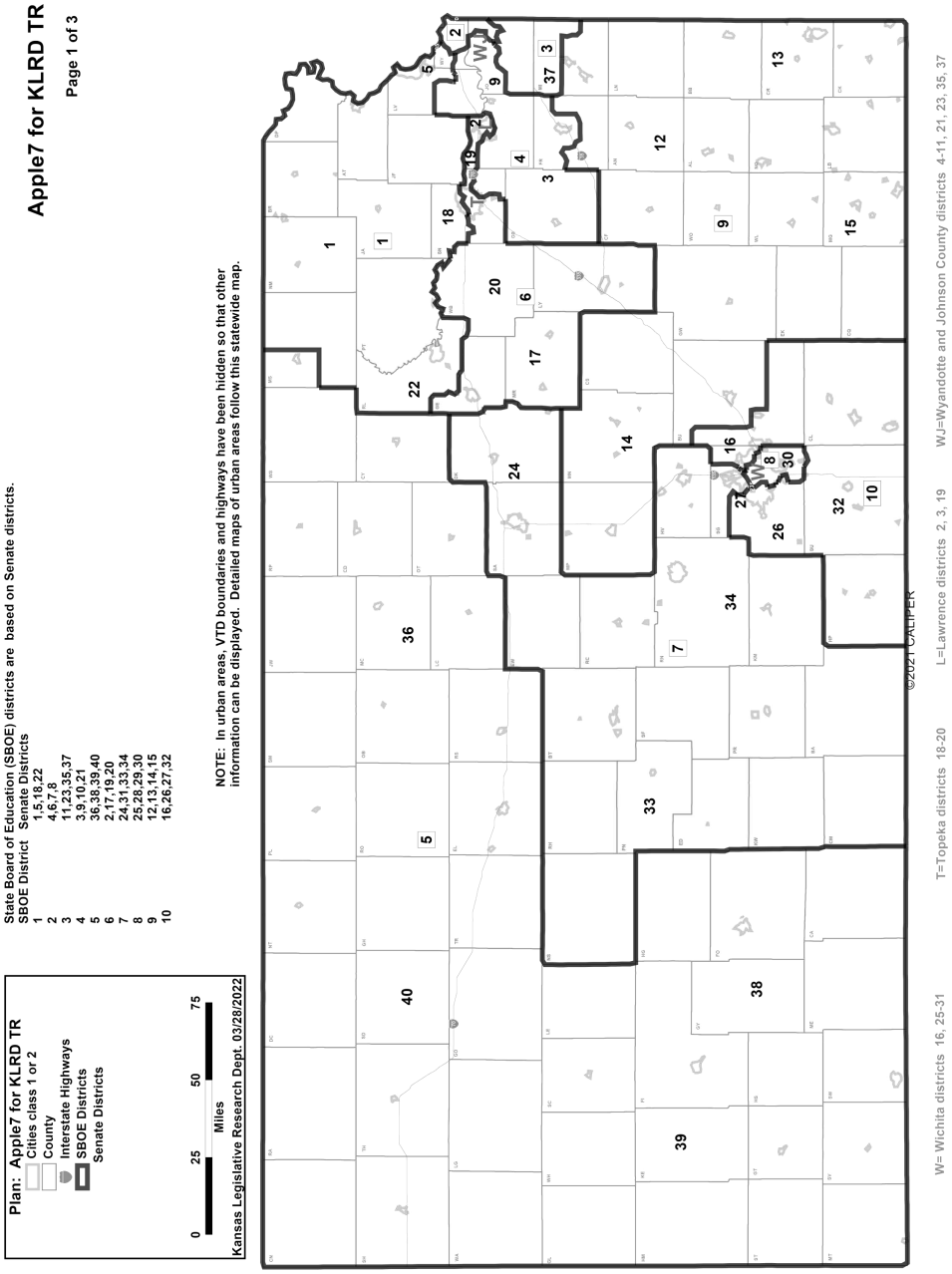
Senate: Liberty 3



House of Representatives: Free State 3F



State Board of Education: Apple 7



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

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

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

LOCAL GOVERNMENT

Prohibiting Municipal Restrictions on Law Enforcement Cooperation; Limiting Municipal ID Cards; HB 2717

HB 2717 prohibits municipalities from restricting law enforcement cooperation with federal authorities and prohibits the use of municipal identification cards from being used to satisfy state proof of identity requirements, including for voter identification. The bill also makes technical changes.

Definitions

The bill defines the following terms:

- "Law enforcement agency" means a city police department, county sheriff's department or police department, or any law enforcement department of a state taxing entity;
- "Law enforcement officer" means a full-time or part-time employee of a municipality whose duties include the prevention or detection of crime and enforcement of criminal and traffic laws;
- "Municipal identification card" means any document, card, or other instrument issued by a city or county and bearing a name, photograph, or descriptive information intended for an individual to use as a form of identification; and
- "Municipality" means a city, county, or state taxing entity that employs law enforcement officers.

Prohibited Actions of Municipalities

The bill prohibits municipalities from enacting, implementing, or enforcing an ordinance, resolution, rule, or policy that prohibits or restricts a law enforcement officer, local official, or local government employee from doing the following with information on a person's citizenship or immigration status:

- Communicating or cooperating with federal officials;
- Sending to or receiving information from the U.S. Department of Homeland Security;
- Obtaining maintaining information; or
- Exchanging information with another federal, state, or local government entity.

The bill states that any such ordinance, resolution, rule, or policy is null and void. Municipalities are also prohibited from limiting or restricting the enforcement of federal immigration laws.

Municipal Identification Cards

The bill prohibits municipal identification cards from being used to satisfy any state requirement for proof of identity and requires each municipal identification card to state "Not valid for state ID" on its face.

The bill amends criminal law that makes illegal certain fraudulent acts using an identification card to include the fraudulent use of municipal identification cards.

The bill also amends election law to remove identification documents issued by a municipality, county, state, or federal government office or agency from the list of valid forms of identification to vote.

Racial or Other Biased Policing

The bill makes the use of racial or other biased-based policing for the enforcement of federal immigration law and communications with federal agencies unlawful.

Continuing law defines "racial or other biased-based policing" as the unreasonable use of race, ethnicity, national origin, gender, or religion by a law enforcement officer in deciding to initiate an enforcement action.

The use of these characteristics are not considered racial or other biased-based policing when used in combination with other identifying factors as part of a specific individual description to initiate an enforcement action.

A person believing they have been subjected to racial or other biased-based policing may file a complaint with the applicable law enforcement agency or the Attorney General.

Cause of Action

The Attorney General, county attorney, or district attorney is authorized to bring a court action to compel a municipality or person to comply with the provisions of the bill.

NATIVE AMERICANS

Conveyance of Certain Property in Johnson County to the Shawnee Tribe; Kansas State Historical Society; SB 405

SB 405 authorizes and directs the Executive Director of the Kansas State Historical Society (KSHS), on behalf of the KSHS, to convey by quitclaim deed, a 0.52-acre parcel of land in Johnson County to the Shawnee Tribe. The legal description of the parcel is provided in the bill.

The bill provides that the conveyance will not require appraisal, bid, or publication, and the conveyance shall not be subject to appraisal requirements in continuing law. The Attorney General is also required to review and approve the deeds and conveyances.

The bill states the Shawnee Tribe agrees to pay all costs related to the conveyance and grants the State a historic preservation easement that will reflect current federal preservation laws regarding properties listed on the National Register of Historic Places.

OPEN RECORDS

Captured License Plate Data; Open Records; SB 434

SB 434 amends law in the Kansas Open Records Act (KORA) governing procedures for obtaining access to public records to require requests for records that contain captured license plate data or that pertain to the location of an automated license plate recognition system (ALPRS) submitted to a state or local law enforcement agency or governmental agency to be directed to the state or local law enforcement agency or governmental agency that owns, leases, or contracts for the ALPRS.

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

Charitable Privacy Act; KORA Exception Continuations; HB 2109

HB 2109 enacts the Charitable Privacy Act (Act) and continues in existence several exceptions in the Kansas Open Records Act (KORA).

Charitable Privacy Act

The Act defines "personal information" to mean any list, record, register, registry, roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, or volunteer of, or donor of financial or nonfinancial support to, a nonprofit organization.

The Act defines "nonprofit organization" to mean:

- An organization exempt from federal income taxation pursuant to Section 501(c) of the Internal Revenue Code;
- An organization that has submitted an application with the Internal Revenue Service for a Section 501(c) exemption; or
- An organization that is a not-for-profit business entity organized under the Kansas General Corporation Code.

The Act defines "public agency" to mean the state or any political or taxing subdivision of the state, or any office, agency, or instrumentality thereof.

The Act prohibits a public agency from:

- Requiring an individual or a nonprofit organization to provide the agency with personal information or compelling the release of personal information;

- Releasing or publicly disclosing personal information in the possession of the agency; or

- Requesting or requiring a current or prospective contractor or grant recipient to provide the public agency with a list of nonprofit organizations to which the contractor or grantee has provided financial or nonfinancial support.

The Act provides that personal information shall be confidential and not subject to KORA. This provision expires on July 1, 2027, unless the Legislature reviews and reenacts it before that date.

The Act provides that a person alleging a violation of its provisions may bring a civil action for injunctive relief or damages, and damages awarded are not less than $7,500 for each violation of the Act's provisions. The court is allowed to award reasonable attorney fees and costs to the complainant when the court determines such award is appropriate.

A person who knowingly violates the Act's provisions is guilty of a class C nonperson misdemeanor.

The Act specifies its provisions do not apply to:

- Reports or disclosures required under the Campaign Finance Act or the State Governmental Ethics Law;

- A valid warrant issued for personal information by a court of competent jurisdiction;

- A lawful request for discovery of personal information in litigation, under specified circumstances;

- Admission of personal information as relevant evidence before a court of competent jurisdiction, except that no court shall disclose personal information unless the court makes a finding of good cause;

- A national securities association as defined by the Securities Exchange Act of 1934, and regulations adopted thereunder;

- Any adult care home as defined in the Adult Care Home Licensure Act;

- Certain information provided to the Attorney General involving the Charitable Organizations and Solicitations Act (COSA) or the Kansas Consumer Protection Act, except that certain disclosures regarding donors are prohibited without consent of the donor;

- Information concerning staff, officers, and individuals designated to control funding needed to process and verify a request for a grant of funds from or a contract for goods and services with any public agency, except that information

directly identifying an individual as a donor of financial support to a nonprofit organization is not subject to disclosure;

- A request by the Department of Revenue, the Kansas Bureau of Investigation, or the Legislature for information required for an audit, background check, examination, or investigation, only for use in connection with such proceeding or any related proceedings; and

- The collection of information related to boards of directors, officers, resident agents, incorporators, and large capital holders of an organization in any report or disclosure required by any statute to be made with the Secretary of State with the intent that it becomes a public record, except that information directly identifying an individual as a donor of financial support to a nonprofit organization is not subject to disclosure.

KORA Exception Continuations

The bill continues in existence the following exceptions to KORA:

- KSA 9-2216a, concerning licensed mortgage business annual reports;

- KSA 22-4620, concerning electronic recordings of felony custodial interrogations;

- KSA 40-2,203, concerning insurer corporate governance annual disclosures;

- KSA 40-3805, concerning insurance third-party administrator transaction records;

- KSA 40-6001 and KSA 40-6007, concerning insurance risk management and own risk and solvency assessment records;

- KSA 50-1124, concerning licensed credit services organization annual reports; and

- KSA 50-1128, concerning State Bank Commissioner examination reports of credit services organizations.

PUBLIC SAFETY

Boiler and Elevator Safety; HB 2005

HB 2005 amends the Boiler Safety Act (Boiler Act) and creates the Elevator Safety Act (Elevator Act).

Boiler Safety Act

The bill amends provisions of the Boiler Safety Act (Boiler Act) to increase the maximum nominal water capacity of an exempt hot water supply boiler to 120 gallons from the previous maximum of 85 gallons. The bill removes the stipulation that a 120-gallon boiler is exempt from the Boiler Act only if it is part of an electrical utility generating plant. [*Note:* The Office of the State Fire Marshal oversees the inspection, installation, and repairs of all boilers and pressure vessels that are subject to the Boiler Act. Certain hot water supply boilers and water heaters are not subject to the Boiler Act.]

Elevator Safety Act

The bill creates the Elevator Safety Act (Elevator Act). The Elevator Act establishes requirements for licensure of elevator contractors, mechanics, and inspectors; requires elevators to be certified as having been annually inspected; establishes the Elevator Safety Advisory Board (Board); assigns duties of implementation and administration of the Elevator Act to the State Fire Marshal; establishes fees for licensure; establishes penalties for violation of the Elevator Act; and establishes the Elevator Safety Fee Fund.

Definitions

The bill defines an “elevator” to mean any device for lifting or moving people, cargo, or freight within, or adjacent and connected to, a structure or excavation, including, but not limited to, an escalator, power-driven stairway, moving walkway, or stairway chair lift.

The term “elevator” does not mean any:

- Amusement ride or other device subject to the Kansas Amusement Ride Act;
- Mining equipment;
- Aircraft, railroad car, boat, barge, ship, truck, or other self-propelled vehicle or component thereof;
- Dumbwaiter, conveyor, chain or bucket hoist, or construction hoist or similar device used for the primary purpose of elevating or lowering materials;

- Boiler grate stoker or other similar firing mechanism subject to the Boiler Act; or

- Lift, manlift, belt manlift, chain hoists, climb assists, special purpose personnel elevator, automated people mover or similar device in wind turbine towers, grain elevators, grain warehouses, seed processing facilities, grain processing facilities, biofuel processing facilities, feed mills, flour mills, or any similar pet food, feed, or agricultural commodity processing facilities.

The bill also defines "Board," "elevator apprentice," "elevator contractor," "elevator inspector," "elevator mechanic," and "licensee."

Scope of the Elevator Act

The provisions of the Elevator Act apply to the design, construction, installation, operation, inspection, testing, maintenance, alteration, and repair of elevators.

The provisions of the Elevator Act do not apply to elevators that are:

- In or adjacent to a building or excavation owned by or under the operational control of any federal agency;

- Located on federal property or the property of any federally recognized native American Indian tribe;

- In a single-family residence; or

- In or adjacent to a building or structure within a manufacturing, utility, or other industrial facility.

The bill requires the owners of elevators that are subject to the provisions of the Elevator Act to request and receive inspection by a licensed elevator inspector upon payment of the inspection fee.

The bill states nothing in the Elevator Act shall be construed to relieve or lessen the responsibility or liability, or assumption of responsibility or liability, of any individual, firm, or corporation owning, operating, controlling, maintaining, erecting, constructing, installing, altering, inspecting, testing, or repairing any elevator for damages to a person or property caused by any defect in the elevator.

Licensure Required

The bill requires an individual to be a licensed elevator mechanic working under the direct supervision of a licensed elevator contractor in order to erect, construct, alter, replace, maintain, remove, or dismantle any elevator contained within a building or other structure, or to wire any elevator from the mainline feeder terminals on the controller.

The bill does not require an elevator mechanic's license or elevator contractor's license to remove or dismantle an elevator destroyed in a complete demolition of a secured building or

structure, or where the hoistway or wellway is demolished back to the basic support structure, thereby preventing access that could endanger the safety of a person.

The bill requires an individual to be a licensed elevator inspector in order to inspect any elevator within a building or other structure, including a private residence. This requirement does not apply to any individual employed as an elevator inspector by a city or county who performs inspections only while engaged in the performance of the individual's duties as an employee of a city or county.

The bill prohibits any entity from erecting, altering, repairing, maintaining, removing, dismantling, or operating any elevator in violation of the Elevator Act or the rules and regulations adopted pursuant to the Elevator Act.

The bill requires all elevators to conform to the rules and regulations adopted pursuant to the Elevator Act. The bill requires elevators, if any material alteration is made, to conform to applicable requirements of the code. The bill specifies the Elevator Act could not be construed to prevent the use, sale, or reinstallation of elevators installed prior to the effective date of the bill if they have been made to conform to any applicable rules and regulations and have not been found to be in an unsafe condition or in violation of the Elevator Act or rules and regulations upon inspection.

Elevator Safety Advisory Board

The bill establishes the Elevator Safety Advisory Board, consisting of 11 members, for the purpose of advising the State Fire Marshal and making recommendations regarding rules and regulations necessary for the Elevator Act.

The Board consists of one member appointed by the President of the Senate, one member appointed by the Speaker of the House of Representatives, the State Fire Marshal or designee (ex officio), the Secretary of Administration or designee (ex officio), and the following seven members as appointed by the Governor:

- One representative from a major elevator manufacturing company;
- One representative from an elevator servicing company;
- One representative of the architectural design or elevator-consulting profession;
- One representative of a city or county in Kansas;
- One representative of a building owner or building manager;
- One representative of labor involved in the installation, maintenance, and repair of elevators; and
- One representative from the general public.

Board members, who will serve three-year terms, must be Kansas residents and meet at least six times each year at a time and place fixed by the State Fire Marshal to consider and review rules and regulations adopted pursuant to the Elevator Act and conduct other business. Members generally serve without compensation, although members who are not state officers or employees attending meetings of such committee or authorized subcommittee are paid subsistence and mileage allowances as provided in continuing law.

Vacancies on the Board are filled using the appointment procedures described above.

The members of the Board will elect one member to serve as chairperson.

Licensure of Elevator Contractors, Inspectors, and Mechanics

The bill authorizes the State Fire Marshal to prescribe the form and manner of license applications and to issue licenses, valid for a period of two years, to elevator contractors, elevator mechanics, and elevator inspectors. The bill exempts elevator apprentices from licensure requirements.

Elevator contractors. The bill requires an elevator contractor to apply for a license, which requires the payment of an application or renewal fee not to exceed $500, and demonstrate employment of a licensed elevator mechanic to perform work covered by the provisions of the Elevator Act. The bill also requires elevator contractors provide proof of general liability insurance coverage of at least $1.0 million for injury or death of persons, at least $500,000 for property damage, and workers' compensation coverage required by state law. The bill requires any material alteration or cancellation of such insurance policies to be reported to the State Fire Marshal within ten days.

An elevator contractor's license must be issued to applicants holding a valid license from a state with standards substantially equal to those of the Elevator Act and applicable rules and regulations.

Elevator inspectors. The bill requires an individual engaged in the business of inspecting elevators to apply for an elevator inspector's license, which requires the payment of an application or renewal fee not to exceed $250. The bill also requires proof of general liability insurance coverage of at least $1.0 million for injury or death of persons, at least $500,000 for property damage, and workers' compensation coverage required by state law. Any material alteration or cancellation of such insurance policies must be reported to the State Fire Marshal within ten days.

Elevator mechanics. The bill requires an individual wishing to engage in installing, altering, repairing, or servicing of elevators to apply for an elevator mechanic's license. The application or renewal fee for an elevator mechanic license cannot exceed $150 and does not include an insurance coverage requirement.

The bill requires issuance of an elevator mechanic license to an applicant:

- Holding a certificate of completion from:
    - The National Association of Elevator Contractors Certified Elevator Technician Certification Program;
    - The National Elevator Industry Education Apprenticeship Program; or
    - Another equivalent nationally approved apprenticeship program; or
- Holding a valid out-of-state elevator mechanic license from a state having standards substantially equal to those of the Elevator Act; or

- Demonstrating within the first year following enactment of the Elevator Act that the applicant has worked as an elevator mechanic without supervision for at least 8,000 hours within the prior 6 years.

The bill authorizes the State Fire Marshal to issue emergency elevator mechanic's licenses as necessary when an emergency exists due to a disaster, an act of God, or work stoppage, and the State Fire Marshal determines an insufficient number of licensees exists to cope with the emergency. Applicants for emergency licensure must furnish proof of competency, as required by rules and regulations adopted pursuant to the Elevator Act.

The bill requires elevator contractors to notify the State Fire Marshal when there are no licensed elevator mechanics available and allows the contractors to request the State Fire Marshal issue temporary licenses to individuals certified by the contractor to have an acceptable combination of experience and education to perform such work without the direct and immediate supervision of a licensed elevator mechanic. The bill allows any individual so certified by an elevator contractor to apply for a temporary license. The State Fire Marshal can issue a temporary license upon finding the requirements for such temporary licenses have been met and upon payment of a fee not to exceed $50.

License Denial and Penalties

The bill authorizes the State Fire Marshal to deny an application or suspend or revoke a license upon a finding that one or more of the following has been committed by the applicant or licensee:

- A willfully false statement or willful omission has been made to a material matter (relevant fact that, if known, could constitute a basis for denial of the application) in the licensure process;

- Fraud, misrepresentation, or bribery in securing a license;

- Failure to notify the State Fire Marshal when the applicant or licensee knows or reasonably should have known of an elevator being operated in the state that is not in compliance with the Elevator Act;

- Failure to maintain any requirement or failure to notify the State Fire Marshal of any alteration or change to a requirement that is necessary to obtain or renew a license, such as insurance requirements; or

- Any violation of the Elevator Act.

The State Fire Marshal is authorized to suspend or revoke a license upon finding of facts and circumstances making revocation necessary to protect the safety of the public, including but not limited to, competence, ability, or fitness of the applicant, and can suspend an elevator inspector license upon finding the licensed elevator inspector has performed duties incompetently, demonstrated untrustworthiness, falsified information in an application or report, or failed to properly report the findings of an inspection. The bill establishes that suspension or revocation of a license is effective upon receipt of notice by the licensee or their employer.

The State Fire Marshal can issue emergency orders, including, but not limited to, immediate suspensions or revocations of licenses, as provided by the Kansas Administrative Procedure Act (KAPA).

The bill states, except as otherwise provided in the Elevator Act or in emergency situations, no license shall be suspended or revoked until after a written order issued by the State Fire Marshal has been served to the licensee. The written order must state the violation, penalty to be imposed, and the right of the person to request a hearing under KAPA.

The State Fire Marshal is authorized to impose a civil penalty of up to $1,000 per day on owners, lessees, or operators of elevators or structures where elevators are located that are in violation of the Elevator Act, with regard to the unlawful construction, installation, maintenance, inspection, or operation of an elevator. The penalty would be in addition to any other penalty provided by law.

The State Fire Marshal can impose a civil penalty of up to $1,000 per violation upon finding a licensee has violated the Act, knowingly permitted a violation, or negligently failed to detect, report, or correct a violation of any provision of the Elevator Act. The penalty would be in addition to any other penalty provided by law.

To impose a civil penalty, the bill requires the State Fire Marshal to provide a person with a written order stating the violation, the penalty to be imposed, and the right of the person to request a hearing.

The bill requires all fines assessed and collected through civil penalties to be remitted to the State Treasurer and deposited in the Elevator Safety Fee Fund, as created by the bill.

The bill allows any party aggrieved by an order issued by the State Fire Marshal pursuant to the Elevator Act to request a hearing on such order within 15 days by filing a written request with the State Fire Marshal, but such request does not abate or stay any emergency order to cease and desist or stop work, unless so stated by the order. The KAPA would govern such administrative proceeding, and judicial review and civil enforcement would be in accordance with the Kansas Judicial Review Act.

The bill states licensees are responsible for ensuring the design, construction, installation, operation, inspection, testing, maintenance, alteration, and repair of an elevator is in compliance with the State Safety and Fire Prevention Act.

Elevator Permitting and Compliance

The bill requires a valid permit to be issued by the State Fire Marshal prior to the commencement of any work on any elevator erected, constructed, installed, or altered.

The permit can be issued only to a licensed elevator contractor who applies for a permit in a form and manner prescribed by the State Fire Marshal and pays a permit fee not to exceed $400. The bill requires a copy of the permit to be kept at the construction site at all times while work is in progress. The bill states work cannot be performed on an elevator if the Fire Marshal has issued a stop work order, notwithstanding the issuance of a permit.

The State Fire Marshal can revoke a permit for the following reasons:

- Any false information in the permit application or related plans or specifications;
- The permit was issued in error under the provisions of the Act;
- The permitted work is not being performed in accordance with the provisions of the application, related plans or specifications, or code; or
- The licensed elevator contractor fails or refuses to comply with a stop work order issued by the State Fire Marshal.

The bill states a permit will expire if the authorized work is not commenced within 6 months, or if work is suspended or abandoned for a period of 60 days after commencement; however, the State Fire Marshal is authorized to allow an extension for good cause.

The bill states it would be the responsibility of the owner of any new or existing elevator or the owner's agent to have the elevator inspected annually by a licensed elevator inspector. The licensed elevator inspector must provide the owner or owner's agent, the owner or lessee of the property, and the State Fire Marshal with a written inspection report describing any code violations. The owner of the elevator or the owner's agent would have 30 days to correct all violations, although the State Fire Marshal is authorized to grant additional 30-day extensions if there is good cause and the safety of the public will not be endangered. The bill states it would be the responsibility of the owner or owner's agent to have a licensed elevator contractor conduct all required tests pursuant to the Elevator Act, and all tests must be conducted by a licensed elevator mechanic.

Certificate of Operation

The bill requires the owner of any elevator installed prior to July 1, 2022, to apply for a certificate of operation on or before July 1, 2023, by filling out an application in the form and manner prescribed by the State Fire Marshal, submitting the most recent inspection report as required in the Elevator Act, and paying an application fee not to exceed $100.

The bill requires the owner of any elevator installed on or after July 1, 2021, and before January 1, 2023, to apply for a certificate of operation within six months after the elevator is placed into operation by filling out an application in the form and manner prescribed by the State Fire Marshal, which includes submitting a licensed elevator contractor's certification that the elevator was installed in compliance with the Elevator Act, and paying an application fee not to exceed $100.

The bill requires, on or after January 1, 2023, before putting a newly installed elevator in operation, the licensed elevator contractor performing the installation to apply for a certificate of operation for the elevator by filling out an application in the form and manner prescribed by the State Fire Marshal, which requires certifying the installation was performed in compliance with the Elevator Act and paying an application fee not to exceed $100.

The bill requires the State Fire Marshal to grant applications and renewals for certificates of operation upon finding the applicant has demonstrated, to the State Fire Marshal's satisfaction, the provisions of the Elevator Act have been met, the elevator will be operated in accordance with the Elevator Act, and the operation of the elevator will not present a danger to the public.

The bill states certificates of operation are valid for one year and can be renewed upon application, which would include an inspection report performed in the preceding 12 months and payment of the renewal fee, which could not exceed the application fee. The bill requires the certificate of operation to state the elevator has been inspected, tested, and found to be in compliance with all applicable standards of operation and be displayed on or in each elevator or elevator machine room.

The bill requires the State Fire Marshal to establish a registry of elevators having a certificate of operation, to include:

- The name of the owner or owner's agent and elevator operator;
- The type of elevator;
- The rated load and speed;
- The name of the manufacturer;
- The location and purpose for the elevator's use; and
- Any additional information as required by the Elevator Act.

Any elevator placed into service after July 1, 2022, will be registered when a certificate of operation is issued for the elevator.

Investigation of Violations

The bill authorizes any person to request, in writing, an investigation into an alleged violation of the Elevator Act. The request must set forth, in reasonable particularity, the grounds for the request and be signed by the person making the request. The request, notice, and any records relating to the request will be confidential and will not be disclosed by the State Fire Marshal unless so ordered by a court. The confidentiality provision will expire on July 1, 2027, unless the Legislature reviews and reenacts the provisions prior to expiration.

The bill authorizes the State Fire Marshal, upon receipt of such notification, to investigate the alleged violation as soon as practicable, determine whether such violation or danger exists, and issue orders during the investigation deemed necessary to avoid danger to the public.

The bill states if the State Fire Marshal determines there are no reasonable grounds to believe a violation or danger exists, the State Fire Marshal must notify the person submitting the request and the owner of the elevator or their agent of the finding in writing. If the State Fire Marshal determined a violation or danger does exist, the State Fire Marshal must revoke the certificate of operation for the elevator, issue orders as deemed necessary to address the violation or danger, or take other actions as provided by the Elevator Act to address the violation or danger.

Rules and Regulations, Exceptions, Funds

The bill requires the State Fire Marshal to adopt rules and regulations by January 1, 2023, for implementation and enforcement of the Elevator Act based on generally accepted national engineering standards, including, at a minimum, the American Society of Mechanical Engineers safety code for elevators and escalators and the safety standards for wind turbine tower elevators.

The bill requires the rules and regulations to include the following:

- Operation, maintenance, servicing, construction, alteration, and installation of elevators;
- Requirements and qualifications for licensure as provided in the bill, including initial and renewal requirements;
- Requirements and qualifications for emergency and temporary license issuance;
- Requirements for permit and certificate of operation issuance;
- Requirements for registration of elevators; and
- Standards for granting exceptions and variances from the rules and regulations of the Elevator Act and municipal ordinances.

The State Fire Marshal is required to establish a fee schedule for licenses, permits, certificates of operation, inspections, and variance requests under the Elevator Act, and such fees must reasonably reflect actual costs and expenses to operate and conduct the duties and obligations of the Elevator Act. The State Fire Marshal has the authority to grant or deny exceptions and variance requests from the Elevator Act or from municipal ordinances where such exception or variance is found not to jeopardize the public safety and welfare and is found to meet applicable standards adopted by the State Fire Marshal for granting such exceptions or variances.

The bill establishes the Elevator Safety Fee Fund, which is administered by the State Fire Marshal. The State Fire Marshal must remit all moneys received from fees, charges, or penalties assessed under the Elevator Act to the State Treasurer, who must deposit the entire amount into the Elevator Safety Fee Fund. All expenditures from the fund must be in accordance with appropriation acts upon warrants of the Director of Accounts and Reports issued pursuant to vouchers approved by the State Fire Marshal or designee.

City and County Exemptions

The bill states the Elevator Act does not preempt or otherwise restrict a city or county from adopting standards that meet or exceed what is required by the Elevator Act. Any city or county with standards meeting or exceeding the requirements of the Elevator Act must notify the State Fire Marshal of adoption of such standards on or before June 30, 2023, and on each June 30 thereafter.

The licensing requirements described in the bill do not apply to any individual employed as an elevator inspector by a city or county who performs inspections only while engaged in performance of the individual's duties as an employee of such city or county.

The bill authorizes a city or county that has adopted standards that meet or exceed those of the Elevator Act to issue an elevator contractor's license or elevator mechanic's license in accordance with those standards, and such license must specify it is issued by such city or county. The bill specifies no license can be issued in lieu of a license issued by the State Fire

Marshal or authorize the licensee to perform work outside the jurisdiction of the issuing city or county.

The bill states the elevator permitting, inspection, certificate of operation, and registry provisions described in the bill do not apply to any elevator in a city or county that has adopted standards that meet or exceed the standards of the Elevator Act. The city or county must establish and maintain a registry of elevators in such city or county that are in operation and include in the registry the information required for the registry of the Fire Marshal of elevators that have certificates of operation.

Pipeline Safety; HB 2329

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

RETIREMENT

KPERS Layering Payment and Supplemental Contribution; SB 421

SB 421 transfers $1.125 billion from the State General Fund (SGF) directly to the Kansas Public Employees Retirement System (KPERS) Trust Fund. Of that amount, the first $253.9 million SGF pays off outstanding accounts receivable for KPERS-School employer contributions withheld in FY 2017 and FY 2019 ("layering payments") while the remaining $871.1 million SGF is applied to the KPERS-School unfunded actuarial liability. The bill transfers $853.9 million in FY 2022 in two installments: $553.9 million on the effective date of the bill and $300.0 million on June 1, 2022. The remaining $271.1 million will be transferred in FY 2023 in two installments, both subject to approval, but not modification, from the State Finance Council: $146.1 million on August 1, 2022, and $125.0 million on December 1, 2022.

The schedule of payments is summarized below:

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

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

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

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

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

SOCIAL SERVICES

Food Assistance Work Requirements for Able-bodied Adults Without Dependents; Senate Sub. for HB 2448

Senate Sub. for HB 2448 requires the Department for Children and Families to assign all able-bodied adults without dependents (ABAWDs) subject to the food assistance work requirements established by federal law to an employment and training program as defined in 7 U.S.C. § 2015(d)(4). The provisions of the bill apply only to ABAWDs aged 18 through 49 and only to individuals who are not employed at least 30 hours per week.

STATE FINANCES

State Budget—Appropriations; House Sub. for Sub. for SB 267

House Sub. for Sub. for SB 267 contains FY 2022 supplemental funding, claims against the State, FY 2023 funding for most state agencies, and FY 2023 capital improvement expenditures for certain state agencies.

Summary of Changes to Approved FY 2022 Expenditures

The FY 2022 budget approved by the 2021 Legislature totaled $20.7 billion, including $8.3 billion from the State General Fund (SGF). The budget included $193.5 million in SGF expenditure authority carried forward from FY 2021.

The revised budget includes $21.9 billion, including $8.2 billion SGF, for FY 2022. This is an all funds increase of $1.2 billion, and an SGF decrease of $102.2 million, from the amount approved by the 2021 Legislature.

Major adjustments to the FY 2022 approved budget include the following:

- Adding $64.9 million, including $48.5 million SGF, to the Department of Corrections, including:
  - Adding $18.3 million, all from federal American Rescue Plan Act of 2021 (ARPA) funds, for the 24/7 pay plan;
  - Adding $21.1 million, all SGF, to restore Evidence Based Initiatives funding; and
  - Adding $6.7 million, all SGF, for Pathways to Success;
- Deleting $184.7 million, all from the State Highway Fund, largely related to the delayed construction of US-69;
- Deleting $72.5 million, including $173.2 million SGF, to implement revised human services caseloads estimates, largely related to the extension of the enhanced Federal Medical Assistance Percentage (FMAP) match;
- Adding $20.2 million from the State Highway Fund for the Kansas Highway Patrol for purchase of two aircraft and replacement of the executive aircraft;
- Adding $80.0 million SGF for the Kansas Water Office to pay off water supply storage debt for Big Hill, Clinton, and Hillsdale reservoirs in FY 2022 and dedicate revenue streams to retirement of storage debt in the future; and

- Adding $1.9 million SGF for the Office of the Secretary of State for the payment of settlements regarding voter fraud litigation.

Summary of Approved FY 2023 Expenditures

The FY 2023 budget totals $16.0 billion, including $4.6 billion SGF.

[*Note:* The FY 2023 budget does not include expenditures for the State Department of Education or aid to school districts, which total $6.4 billion, including $4.2 billion SGF and 270.3 FTE positions. The provisions for the State Department of Education were inserted into Senate Sub. for HB 2567.]

Major FY 2023 expenditure adjustments include:

- Education:
  - State Department of Education – Deleting $6.4 billion, including $4.2 billion SGF;
  - State Board of Regents – Deleting $1.6 million SGF, including:
    - Adding $10.0 million SGF to a new Demolition Account and designating $750,000 for Washburn University;
    - Adding $10.0 million SGF to the State Universities Facilities Capital Renewal Initiative with a one-to-one match requirement;
    - Adding $11.4 million SGF to the Non-Tiered Course Credit Hour Grant;
    - Adding $19.0 million SGF to the Comprehensive Grant Program with a requirement of a one-to-one match of non-government funding;
    - Deleting $20.7 million SGF from the Postsecondary Education Operating Grant;
    - Adding language to address overfunding of some community and technical colleges and creating a working group to review funding and formula issues;
    - Adding $7.0 million SGF for Wichita State University for the National Institute for Aviation Research. This is the first year of five years of appropriations for this purpose.

      [*Note:* Federal ARPA funding added for universities, community colleges, technical colleges, Washburn University, and private institutions is included in the Office of the Governor.]

- Human Services:
  - Department for Children and Families – Adding $7.5 million SGF for workforce recruitment and retention incentives for child placing agencies and licensed facilities, including qualified residential treatment programs;

- Kansas Department of Health and Environment (KDHE)—Health

  - Adding $10.0 million; including $4.5 million SGF, to increase reimbursement rates for Emergency Medical Services provider codes;
  - Adding $3.5 million, including $1.4 million SGF, to increase the availability of adult dental services provided through the State Medicaid program; and
  - Adding $2.9 million, including $886,200 SGF, to raise provider reimbursement rates for pediatric primary care services;

- Kansas Department for Aging and Disability Services – Adding $224.0 million, including $91.3 million SGF; major adjustments include:

  - Adding $122.2 million, including $48.9 million SGF, to provide a 25.0 percent reimbursement rate increase, excluding the T1000 code for specialized nursing, for providers of Home and Community Based Services (HCBS) Intellectual and Developmental Disability (I/DD) waiver services;
  - Adding $65.2 million, including $26.2 million SGF, to provide for a full rebase of the nursing facility daily Medicaid rate for FY 2023. This amount is the difference between the amount to fully rebase the daily rate and the 3.0 percent increase already included in the Governor's recommendation for FY 2023;
  - Adding $11.8 million, including $4.7 million SGF, to provide a 10.0 percent reimbursement rate increase for providers of HCBS Frail Elderly waiver services;
  - Adding $12.5 million, including $5.0 million SGF, to provide a 4.0 percent reimbursement rate increase for Medicaid behavioral health services;
  - Adding $7.7 million, including $3.1 million SGF, and adding language to increase the reimbursement rate for the T1000 Medicaid code for specialized nursing care from $43.00 per hour to $47.00 per hour;
  - Adding $2.0 million SGF to assist with staffing at psychiatric residential treatment facilities; and
  - Adding $2.5 million, including $1.5 million SGF, to increase the amount provided to community developmental disability organizations to fulfill their role in assessing individuals for the HCBS I/DD waiver.

- Public Safety:

  - Kansas Highway Patrol – Adding $1.4 million, all from special revenue funds, to enhance the Kansas Highway Patrol Career Progression Plan; and

- Department of Corrections – Adding $16.1 million SGF for the 24/7 pay plan.

- General Government:
  - Department of Commerce – Major adjustments include:
    - Adding $5.0 million to the Department of Commerce in federal ARPA funds to support a new housing grant requiring a one-to-one match of non-state funding to accommodate recent economic expansion; and
    - Increasing the transfer from the SGF to the Job Creation Program Fund from $3.5 million to $20.0 million.
  - Office of the Governor – Major adjustments include:
    - Adding $75.0 million from federal ARPA funds for grants for the State Board of Regents, requiring a three-to-one match;
    - Adding $50.0 million from federal ARPA funds for business closure rebates;
    - Adding $35.0 million from federal ARPA funds for economic development grants at the University of Kansas;
    - Adding $35.0 million from federal ARPA funds to offer a grant to a new agricultural production facility;
    - Adding $28.5 million from federal ARPA funds for grants to various community colleges with a one-to-one match requirement;
    - Adding $25.0 million from federal ARPA funds for agriculture development at Kansas State University;
    - Adding $25.0 million from federal ARPA funds for Health Sciences at the University of Kansas and Wichita State University;
    - Adding $20.0 million from federal ARPA funds for the Moderate Income Housing program;
    - Adding $20.0 million from the SGF for the Rural Housing Revolving Loan Program;
    - Adding $10.0 million from federal ARPA funds for private and independent colleges with a three-to-one match requirement; and
    - Adding $10.0 million from federal ARPA funds for Washburn University and community colleges other than those included in the $28.5 million above with a one-to-one match requirement.
  - Department of Administration – Adding $60.0 million SGF for the Docking State Office Building with language lapsing up to $60.0 million if available federal funding is in excess of that amount.

- Agriculture:

- KDHE—Environment – Adding $32.5 million SGF for the KDHE Laboratory and lapsing excess funds if federal funds are available.

- Statewide Adjustments:

  - State Employee Pay – Adding $145.3 million, including $49.1 million SGF, to provide a 5.0 percent statewide salary adjustment for most state employees.

    The following agencies or classifications were identified as having recent salary adjustments and are excluded: hourly employee recipients of the 24/7 Pay Plan, legislators, elected officials, Kansas Highway Patrol troopers included in a career progression plan, teachers at the Kansas State School for the Blind and the Kansas State School for the Deaf, employees of the Office of Administrative Hearings, investigation agents and forensic scientists of the Kansas Bureau of Investigation, employees of the Board of Indigents' Defense Services included in the agency salary enhancement proposal, employees of the Kansas Sentencing Commission, employees of the State Fire Marshal that have received recent market adjustments, and any other employee on a formal career progression plan.

Summary of Approved FY 2022 and FY 2023 Revenue Adjustments

The following are the adjustments to SGF transfers and taxes that adjust available SGF revenue. For FY 2022, the bill reduces SGF receipts by $753.9 million. For FY 2023, the bill increases SGF receipts by $562.4 million.

FY 2022 revenue adjustments include:

- Budget Stabilization Fund – Transferring $500.0 million from the SGF to the Budget Stabilization Fund.

FY 2023 revenue adjustments include:

- Water Structures Emergency Fund – Transferring $50,000 SGF to the Water Structures Emergency Fund;

- Digital Imaging Fund – Transferring $500,000 SGF to the Digital Imaging Program Fund; and

- Job Creation Program Fund – Increasing the transfer from the SGF to the Job Creation Program Fund from $3.5 million to $20.0 million.

STATE GENERAL FUND RECEIPTS, EXPENDITURES, AND BALANCES

House Sub. for Sub. for SB 267 – Profile
(Dollars in Millions)

	Actual FY 2021	House Sub. for Sub. for SB 267 FY 2022	House Sub. for Sub. for SB 267 FY 2023
Beginning Balance	$ 495.0	$ 2,094.8	$ 2,236.4
Receipts (November 2021 Consensus)	8,867.6	8,870.0	9,047.9
Governor's Revenue Adjustments	0.0	(596.2)	(48.1)
Legislative Tax Adjustments	0.0	0.0	(62.6)
Legislative Receipt Adjustments	0.0	100.0	27.5
Adjusted Receipts	8,867.6	7,793.7	8,964.7
Total Available	$ 9,362.6	$ 10,468.6	$ 11,201.1
Less Expenditures	7,267.8	8,240.5	4,571.1
2021 Authorized Federal Fund Swaps	0.0	(14.6)	0.0
SB 347 - APEX	0.0	6.3	6.3
HB 2239 - Property Tax	0.0	0.0	42.8
Ending Balance	**$ 2,094.8**	**$ 2,236.4**	**$ 6,580.8**
Ending Balance as a % of Expenditures	28.8 %	27.2 %	142.8 %

[*Note:* Profile does not include FY 2022 adjustments or FY 2023 expenditures for the State Department of Education or aid to school districts (Senate Sub. for HB 2567).]

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

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

State Budget—Omnibus Appropriations; HB 2510

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

FY 2022 Adjustments

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

- Department of Administration – Adds $332.2 million SGF for the early payoff of Series 2015A and 2015G bonds;

- Office of the Governor – Adds $15.0 million, from federal American Rescue Plan Act of 2021 (ARPA) funds, to provide funding to nursing facilities to cover rising costs associated with staffing shortages for facilities;

- Human Services Caseloads – Adopts the Governor's Budget Amendment (GBA) No. 2, Item 1 for Human Services Caseloads to add $110.4 million, including the deletion of $12.6 million SGF; and

- Kansas Bureau of Investigation – Adds $41.5 million SGF for the early payoff of bonds related to the Forensic Science Laboratory.

FY 2023 Adjustments

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

Human Services:

- **Kansas Department for Aging and Disability Services** – Adds $10.0 million SGF to fund 988 hotline operations. The bill includes language to lapse the funding if House Sub. for SB 19 is enacted. [*Note:* House Sub. for SB 19 has been signed into law.]

- **Kansas Commission on Veterans Affairs Office** – Adopts GBA No. 2, Item 4, to add language for updated debt service estimates for a new veterans home and increase the bonding authority for the project up to $17.2 million SGF.

- **Human Services Caseloads** – Adds $221.5 million, including $61.3 million SGF, to adopt GBA No. 2 Item 1 for Human Services Caseloads.

General Government:

- **Office of the Governor** – Adds $62.9 million, all from federal and special revenue funds, including:
    - $25.8 million, all from federal ARPA funds, for certain state universities, community colleges, and technical colleges; and
    - $35.6 million, including $34.6 million from federal ARPA funds, for other housing and economic development projects.

- **Judicial Branch** – Adds $17.3 million SGF and deletes $17.3 million from special revenue funds for FY 2023 to account for the provisions of HB 2541, which redirects deposit of the judicial surcharge and docket fees to the SGF.

- **Legislature** – Adds $5.1 million SGF and 6.0 full-time equivalent positions to assist with the KLISS modernization project for FY 2023.

- **Salary Adjustments:**

    - Adds $4.0 million SGF to provide a 5.0 percent salary adjustment to participants in the 24/7 pay plan who did not receive a base salary adjustment;
    - Adds $841,113 SGF as aid to local community corrections agencies for the purpose of providing a 5.0 percent salary increase consistent with the statewide pay increase; and
    - Adds $1.0 million, including $800,000 SGF, to restore the 5.0 percent salary adjustment for the Board of Indigents' Defense Services and the State Fire Marshal.

Higher Education:

- **Board of Regents** – Adds $12.5 million SGF to the Postsecondary Education Operating Grant for FY 2023 and removes the language in House Sub. for Sub. for SB 267 to not increase tuition.

- **Wichita State University** – Transfers $10.0 million, all from federal ARPA funds, from the Office of the Governor to the federal Digital Transformation Fund.

Agriculture and Natural Resources:

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

Summary of Approved FY 2022 and FY 2023 Revenue Adjustments

FY 2022

- Transfers an additional $250.0 million from the SGF to the Budget Stabilization Fund for a total transfer of $750.0 million in FY 2022; and

- Transfers $4.0 million to the Job Creation Program Fund to prepare land for economic development associated with enactment of the Attracting Powerful Economic Expansion Act (APEX Act), SB 347.

FY 2023

- Transfers $3.5 million from the SGF to the STAR Bond Sales Tax Refund Fund to defray the cost of reducing the food sales tax; and

- Deletes $26.4 million in SGF receipts for HB 2237, which extends the Rural Opportunity Zone program and provides for additional child care tax benefits.

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

STATE GENERAL FUND RECEIPTS, EXPENDITURES, AND BALANCES

HB 2510 – Profile
(Dollars in Millions)

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

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

STATE GOVERNMENT

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

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

Sale and Conveyance of Real Property—State Educational Institutions

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

The bill requires the Board to:

- Adopt policies governing the procedures under which state educational institutions may sell and convey real property given as an endowment, bequest, or gift to such institution; and

- Annually submit a report to the Legislature listing any real property transfers that occurred during the prior fiscal year pursuant to the requirements of this bill.

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

State Surplus Real Estate

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

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

- 20.0 percent of the proceeds from the sale must be credited to the agency that owns the property; and

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

[*Note:* The provisions pertaining to the disposition of proceeds requiring the crediting to the Trust Fund were added to law in 2012 Senate Sub. for Sub. for HB 2333, the KPERS Omnibus bill, which made several changes in retirement benefits and plan design to improve the overall funding position of the Retirement System. Prior to enactment of this law, 80.0 percent of the proceeds were credited to the State General Fund.]

State Capitol Memorial Commemorating Kansas Suffragists; SB 479

SB 479 requires the Capitol Preservation Committee to approve plans to place a permanent memorial in the State Capitol commemorating the work of Kansas suffragists toward achieving the right of women to vote in Kansas and the passage of the 19th Amendment to the *U.S. Constitution*.

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

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

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

Review of Administrative Rules and Regulations; HB 2087

HB 2087 amends law related to the review of administrative rules and regulations.

Economic Impact Statements

As part of the rules and regulations approval process, state agencies provide an economic impact statement to the Director of the Budget (Director) that considers, among other things, the total annual implementation and compliance costs to businesses, local governments, or individuals; a determination of whether costs would be more than $3.0 million over two years; and an estimate of such costs expressed as a single dollar figure.

The bill requires state agencies to include in such economic impact statement a determination of whether costs would be more than $1.0 million over any two-year period from the effective date of the bill through June 30, 2024, or exceed $3.0 million over any two-year period on and after July 1, 2024.

The Director has been required to make an independent determination regarding implementation and compliance costs and may approve or disapprove of a rule and regulation based upon the accuracy of the economic impact statement, or a determination that implementation and compliance costs will be more than $3.0 million over two years. Additionally,

if it is determined that such costs are more than $3.0 million, the state agency must also conduct a public hearing.

The bill removes the requirement that the Director make an independent determination of implementation and compliance costs, removes provisions requiring the Director to approve all rules and regulations, and specifies the Director is not required to review or approve rules and regulations if the submitting agency determines such rules and regulations would not result in costs of more than $1.0 million over two years from the effective date of the bill through June 30, 2024, or more than $3.0 million over two years on and after July 1, 2024. Agencies continue to be required to provide the Director with a copy of the economic impact statement for every rule and regulation submitted for approval.

The bill requires the Director to approve a proposed rule and regulation with determined costs that exceed $1.0 million from the effective date of the bill through June 30, 2024, or exceed $3.0 million on and after July 1, 2024, over any two-year period if:

- The agency has held a public hearing;
- The agency found the costs of the proposed rule and regulation have been accurately determined and are necessary for legislative intent; and
- The Director concurs with the agency's findings and approves the economic impact statement after an independent analysis.

The bill also specifies that the implementation and compliance costs are those costs reasonably expected to be incurred and shall be separately identified for the affected businesses, local government units, and members of the public. The bill further specifies that in its determination of costs, the agency should not account for any actual or estimated cost savings realized by those entities.

The bill further states, if a state agency is proposing a rule and regulation because of a federal mandate, the state agency continues to be required to provide an economic impact statement, but the Director is not required to review or approve the proposed rule and regulation, regardless of estimated implementation and compliance costs. The bill specifies, for rules and regulations proposed due to a federal mandate, compliance costs are calculated from the effective date of the rule and regulation.

The bill requires the Director to submit a report to the Legislature or the Joint Committee on Administrative Rules and Regulations (JCARR) upon approval of a rule or regulation with costs determined to be greater than $1.0 million from the effective date of the bill through June 30, 2024, or greater than $3.0 million on and after July 1, 2024, over any two-year period.

Order of Proposed Rules and Regulations

Prior law required proposed rules and regulation to be submitted to the Director before being submitted to the Secretary of Administration and Attorney General. The bill amends the order of submission to require state agencies to send proposed rules and regulations directly to the Secretary of Administration and Attorney General before submission to the Director.

Legislative Post Audit

The bill changes, from 2021 to 2026, the year in which the Legislative Post Audit Committee must direct the Legislative Division of Post Audit to conduct an audit to study:

- The accuracy of economic impact statements submitted with proposed rules and regulations by state agencies for the immediately preceding seven years;
- The impact the review by the Director has had on the accuracy of such economic impact statements; and
- Whether the $1.0 million or $3.0 million cost figure is the appropriate amount of economic impact to trigger the public hearing procedure required in continuing law.

Reporting Requirements

The bill requires each state agency that has adopted rules and regulations to submit a report to the JCARR on or before July 15 of the year specified in the bill for the agency. The report must include:

- A summary of the agency's review and evaluation of its adopted rules and regulations; and
- A statement for each rule and regulation as to whether it is necessary for the implementation and administration of state law, or whether it may be revoked subject to the alternative revocation procedure created by the bill.

Reporting Years

The bill specifies that each agency that has adopted rules and regulations shall submit a report based upon the following schedule:

- For 2023 and every fifth year thereafter, agencies with numbers 1 through 23;
- For 2024 and every fifth year thereafter, agencies with numbers 24 through 51;
- For 2025 and every fifth year thereafter, agencies with numbers 53 through 82;
- For 2026 and every fifth year thereafter, agencies with numbers 84 through 107; and
- For 2027 and every fifth year thereafter, agencies with numbers 108 through 133.

[*Note:* Agency numbers are used above as a substitute for the agency names listed in the bill. An agency number is assigned by the Office of the Secretary of State when an agency promulgates rules and regulations for the first time.]

The bill requires any state agency not listed in the bill that adopts rules and regulations having an effective date on or after July 1, 2022, to submit a report on or before July 15 of the fifth year after the effective date, and every fifth year thereafter.

Public Purpose, Supplemental to Rules and Regulations Filing Act

The bill states that a rule and regulation may be adopted or maintained by an agency only if it serves an identifiable public purpose to support state law, and may be no broader than is necessary to meet such public purpose.

The new section of the bill relating to reporting requirements is made part of and supplemental to the Rules and Regulations Filing Act (Filing Act).

Alternative Revocation Procedure

The bill amends the Filing Act to authorize a state agency, having identified any rule and regulation as being revocable in its report to JCARR, to revoke the rule and regulation by filing notice of revocation with the Office of the Secretary of State (Secretary) and having the notice published in the *Kansas Register*. The bill prohibits the notice of revocation from containing any new rules and regulations, or any amendments to rules and regulations.

Before filing the notice of revocation with the Secretary, the agency is required to:

- Hold a public hearing on the proposed revocation, if one is requested in writing by a member of the public;
- Submit the notice of revocation to the Attorney General for review and approval, in accordance with continuing law; and
- Submit the notice of revocation to JCARR, and appear before the Committee at a hearing on the proposed revocation, if requested by the chairperson.

The revocation of a rule and regulation is effective 15 days following the date the notice is published in the *Kansas Register*.

The bill also amends the Filing Act to except rules and regulations revoked under the alternative revocation procedure from the JCARR review requirements in continuing law.

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

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

Medical Assistance Program

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

- Issue a request for proposal for the administration and provision of benefits under the medical assistance program; or

- Enter into any new contract with managed care organizations for the administration and provision of benefits under the medical assistance program.

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

These provisions expire on January 31, 2023.

Powers of the Governor In KEMA

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

State Symbols, State Fruit; HB 2644

HB 2644 designates the Sandhill plum, also known as the Chickasaw plum, as the official state fruit.

Kansas Semiquincentennial Commission; HB 2712

HB 2712 establishes the Kansas Commission for the United States Semiquincentennial Act (Act). [*Note:* The U.S. Semiquincentennial, on July 4, 2026, will commemorate the 250th anniversary of the founding of the country.]

Definitions

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

Kansas Commission for the United States Semiquincentennial

The bill establishes the Commission within and as a part of the Department of Commerce (Department) in order to plan, encourage, develop, and coordinate the

commemoration of the 250th anniversary of the founding of the United States and to recognize the impact of this event on the people of Kansas and the nation's past, present, and future.

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

Commission Members

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

- The Secretary of Commerce or designee;
- The Executive Director of the Kansas African American Affairs Commission or designee;
- The Executive Director of the Kansas Hispanic and Latino American Affairs Commission or designee;
- The Executive Director of the Kansas State Historical Society or designee;
- Three members of the House of Representatives appointed by the Speaker of the House of Representatives, the House Majority Leader, and the House Minority Leader, respectively;
- Three members of the Senate appointed by the President of the Senate, the Senator Majority Leader, and the Senate Minority Leader, respectively;
- The State Regent of the Kansas Society Daughters of the American Revolution or designee;
- The President of the Kansas Society Sons of the American Revolution or designee;
- The President of the Kansas Historical Foundation or designee;
- One professor of American history from a Kansas institution of higher education appointed by the President of the State Board of Regents;
- One teacher of American history from a public school appointed by the State Board of Education;
- One representative appointed by the Kansas Native American Affairs Office;
- The Commander of the Kansas American Legion or designee;

- The Commander of the Kansas Veterans of Foreign Wars or designee;
- The President of the Sunflower Sampler Foundation or designee; and
- The Chairperson of the Kansas State Fair Board or designee.

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

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

Commission Purpose

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

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

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

Meetings of the Commission

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

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

Reports

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

- A detailed timeline of the Commission's plan for the overall program through 2027;
- The Commission's recommendations for the allocation of costs among public and private entities that provide financial and administrative assistance to the Commission;
- The projected number of jobs created through the implementation of the Commission's plan and overall program;
- The projected economic impact of the implementation of the Commission's plan and overall program on the economy of Kansas;
- The geographic impact of the Commission's plan and overall program on all the counties of Kansas; and
- Outputs and outcomes against which progress and success of the Commission's plan and overall program can be measured.

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

Commission Funding

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

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

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

Other Provisions

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

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

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

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

Antisemitism; HCR 5030

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

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

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

TAXATION

Food Sales Tax; HB 2106

HB 2106 amends law related to sales tax on food.

Food Sales Tax Rate

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

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

Local Sales Tax on Food

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

Distribution of Sales Tax Revenue to the State Highway Fund

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

Food Sales Tax Credit

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

Fiscal Effects

The Department of Revenue estimates the bill will reduce state revenues by $80.3 million in FY 2023, $264.1 million in FY 2024, $434.3 million in FY 2025, and $533.9 million in FY 2026.

Of those amounts, State General Fund receipts are expected to be reduced by $85.0 million in FY 2023, $257.5 million in FY 2024, $437.1 million in FY 2025, and $526.2 million in FY 2026. State Highway Fund receipts are expected to increase by $4.7 million in FY 2023, decrease by $6.6 million in FY 2024, increase by $2.8 million in FY 2025, and decrease by $7.7 million in FY 2026.

Sales Tax and COVID-19 Retail Storefront Property Tax Relief Act; HB 2136

HB 2136 enacts the COVID-19 Retail Storefront Property Tax Relief Act, authorizes Atchison County to submit a question to voters regarding a local sales tax, delays the implementation of a sales tax exclusion for delivery charges, and amends law related to sales tax remittances.

COVID-19 Retail Storefront Property Tax Relief Act

The bill enacts the COVID-19 Retail Storefront Property Tax Relief Act (Act) to provide for claims for refunds to be paid for tax years 2020 and 2021 for certain claimants that were operationally shut down or restricted at their retail storefront by a COVID-19-related order or action imposed by the State, a local unit of government, or a local health officer.

Refund Amounts

The refund is to be equal to 33.0 percent of the sum of the COVID-19 ordered shutdown days gross rebate amount and the COVID-19 ordered restricted operations days gross rebate amount, as those terms are defined by the bill. Refunds are limited to $5,000 per tax year per retail storefront.

The COVID-19 ordered shutdown days gross rebate amount is the amount of property taxes accrued or 15.0 percent of gross rent actually paid in cash for the tax year, divided by 3 for businesses shut down for 91 or more days, divided by 4 for businesses shut down for 61 to 90 days, divided by 6 for businesses shut down for 31 to 60 days, and divided by 12 for businesses shut down for 1 to 30 days.

The COVID-19 ordered restricted operations days gross rebate amount is the amount of property taxes accrued or 15.0 percent of gross rent actually paid in cash for the tax year, divided by an amount ranging from 2 to 16, depending on the number of ordered restricted operation days.

Eligible Claimants

Claimants are required to be for-profit businesses in operation as of July 1, 2019, and March 1, 2020, and filing a 2019 tax return with annual revenues of at least $10,000 in 2019, with less gross revenue in 2020 or 2021 than in 2019. Businesses are not permitted to be claimants if they received more than a total of $150,000 in prior COVID-19-related local, state, or federal funding, or any combination thereof.

The bill excludes as claimants grocery stores, pharmacies, hardware stores or home improvement businesses, retail liquor stores, manufacturers and food processors, schools from pre-kindergarten through postsecondary, hospitals and health care providers (not including dentists), property management and real estate services, professional services, agricultural and aquaculture producers, hosts or operators of vacation or short-term rental units, passive businesses, financial businesses primarily engaged in the business of lending, cable companies, telephone companies, utilities, and energy production, generation, and distribution companies.

Only one claimant per retail storefront is permitted to receive a refund per tax year. "Retail storefront" is defined as real property where the claimant conducts retail sales through customers' physical, on-site presence and can be part of a multi-purpose or multi-retail storefront building.

Additional Provisions

The Act requires claims to be filed with the Department of Revenue on or before April 15, 2023, in order to be paid or allowed. The Act directs the Director of Taxation to make available suitable forms for filing claims and authorizes the Secretary of Revenue to adopt rules and regulations necessary for the administration of the Act.

The Act requires claimants to provide reasonable proof of eligibility for a refund to the Director of Taxation, including information concerning taxes levied and rent paid. The Act permits the amount of any claim to be applied to outstanding tax liability owed by the claimant and requires a refund amount to be paid to a county treasurer to be applied to property taxes owed in the event a claimant has delinquent property taxes for tax year 2020 or 2021. Delinquent property taxes for any tax year prior to 2020 disallow a claimant from being eligible for a refund.

The Act provides for the disallowance of any claims filed with fraudulent intent or upon a finding that the claimant received title to the retail storefront for the purpose of applying for a refund. Filing a claim with fraudulent intent is a class B misdemeanor, and any claim paid upon a fraudulent filing bears interest at a rate of 1.0 percent per month until the claim is repaid or recovered.

The Act provides for refunds to be paid out of the American Rescue Plan-State Fiscal Relief-Federal Fund.

The provisions of the Act are subject to informal conference and appeals to the State Board of Tax Appeals.

Atchison County Sales Tax Authority

The bill authorizes Atchison County to submit to the voters a question to impose a sales tax of up to 1.0 percent for the purposes of funding joint law enforcement communications and solid waste disposal. The tax would not be subject to apportionment with cities within the county and would be required to expire in not more than 10 years.

Sales Tax Delivery Charges Exclusion Implementation Delay

The bill delays the implementation date of a sales tax exclusion for separately stated delivery charges from July 1, 2022, to July 1, 2023.

Sales Tax Remittances

The bill eliminates a provision requiring retailers with annual sales tax liability in excess of $40,000 to remit estimated payment for the first 15 days of the current month when the tax return for the previous month is filed.

Taxation Omnibus; Senate Sub. for HB 2239

Senate Sub. for HB 2239 amends law related to property tax, income tax, and sales tax.

Property tax. The bill modifies revenue neutral rate notice and hearing procedures and provides for taxpayer complaint procedures; increases the residential property tax exemption from the uniform statewide school finance levy; specifies the classification of land used by zoos, used incidentally by certain agritourism activities, and in the federal Grassland Conservation Reserve Program; creates a property tax exemption for antique utility trailers; allows for the proration of certain personal property taxes; expands the authority of county commissions to abate property taxes for disaster-destroyed property; and modifies the definition of telecommunications machinery and equipment for purposes of property tax exemption.

Income tax. The bill enacts the SALT Parity Act; provides an income tax credit for certain contributions to technical and community colleges; provides for an income tax checkoff for contributions to Kansas state historic sites; enacts aviation, aerospace, and short-line railroad infrastructure tax credits; enacts a teacher classroom supplies tax credit; allows for refund claims pursuant to the Homestead Property Tax Refund Program based on tax growth from a base year; extends the Rural Opportunity Zones program; modifies the research and development tax credit; and allows for an additional personal exemption for certain disabled veterans.

Sales tax. The bill creates a sales tax exemption for agricultural fencing; enacts the Gage Park Improvement Authority Act; excludes separately stated shipping and handling charges from sales tax; repeals the sunset of the tax exclusion for motor vehicle manufacturer rebates; requires certain ballot language for countywide retail sales tax elections; authorizes a countywide sales tax in Wilson County; and validates a sales tax election in the city of Latham.

Property Tax

Revenue Neutral Rate Changes

The bill allows taxpayers owning property within a taxing subdivision, or their duly authorized representatives, to file complaints with the Board of Tax Appeals showing that a taxing subdivision did not comply with the notice and hearing and budget adoption provisions of the revenue neutral rate law. Upon the filing of a complaint, the governing body of the taxing subdivision will be required to provide evidence demonstrating, by a preponderance of the evidence, the validity of any challenged tax levy. If the Board of Tax Appeals finds the taxing subdivision did not comply with the revenue neutral rate requirements, the bill directs the Board to order refunds of property taxes paid or a reduction of taxes levied for taxes collected or levied in excess of the amount generated by the revenue neutral rate. The Board of Tax Appeals is

required to provide a form for the filing of such complaints and is not permitted to charge a filing fee for any such complaints.

The bill directs county clerks to reduce the amount of property taxes to be levied by taxing subdivisions to the amount resulting in the taxing subdivision's revenue neutral rate if the governing body of the taxing subdivision does not comply with the notice and hearing and budget adoption procedures required by the revenue neutral rate law.

The bill requires the revenue neutral notice to include the percentage by which the proposed property tax rate exceeds the revenue neutral rate.

The bill requires a roll call vote to approve a resolution or ordinance to exceed the revenue neutral rate. The bill requires a copy of the resolution or ordinance to exceed the revenue neutral rate and the roll call vote to be included in the adopted budget filed with the county clerk and Director of Accounts and Reports, and the bill requires such information to be published on the website of the Department of Administration.

The bill requires budgets of taxing subdivisions filed with the Director of Accounts and Reports to be filed on or before December 31 of each year. The Department of Administration is required to make such budget documents and revenue neutral rate documents available to the public on the Department of Administration's website via a conspicuous link on the front page of the Department's website.

The Department of Administration is also required to annually provide a list of taxing subdivisions by county with information concerning the revenue neutral rate of each taxing subdivision, whether the taxing subdivision held a hearing to exceed its revenue neutral rate, the tax rate resulting from the adopted budget, and the percent change between the revenue neutral rate and the tax rate for each taxing subdivision.

The bill provides that school districts are deemed to have not exceeded their revenue neutral rate in the event the revenue in excess of the prior year amount was solely attributable to increased revenue from the 20 mill statewide school finance levy.

Residential Property Tax Exemption

The bill increases the amount of the residential exemption from the 20 mill uniform statewide school finance property tax levy from $20,000 of valuation to $40,000 of valuation beginning in tax year 2022 and provides for the amount to be increased in future tax years according to the average percentage change in statewide residential real property for the preceding 10 tax years.

Zoo and Agritourism Land Classification

The bill provides that land utilized by zoos holding a class C exhibitor license issued by the U.S. Department of Agriculture and land devoted to the production of plants, animals, or horticultural products that is incidentally used for agritourism activity, which is defined by the bill, is to be classified as land devoted to agricultural use for purposes of property taxation.

Grassland Conservation Reserve Program Land Classification

The bill specifies that, beginning in tax year 2023, all land devoted to agricultural use that is subject to the federal Grassland Conservation Reserve Program shall be classified as grassland for property tax purposes.

Antique Utility Trailers

The bill creates a property tax exemption beginning in tax year 2023 for antique utility trailers used exclusively for personal use and not for the production of income. The bill defines such trailers as 35 years old or older with an empty weight of 2,000 pounds or less and a gross weight of 8,000 pounds or less.

Personal Property Tax Proration

The bill provides the taxable value of personal property acquired or sold after January 1 and prior to September 1 of any taxable year to be prorated based upon the number of months, or majority portion thereof, the property was owned during the year divided by 12 months.

Property acquired on or after September 1 is not subject to tax for the current year.

This provision applies only to property taxed pursuant to Class 2, Subclass 6 under Article 11, Section 1 of the *Kansas Constitution*.

Disaster-destroyed Property Tax Abatements

The bill broadens the authority of county commissions to abate property taxes for all buildings and agricultural improvements listed as real property. County commissions have the option to abate taxes in situations where such property has been damaged in a gubernatorial-declared disaster and restoration costs equal or exceed 50 percent of pre-damage market value. An application for an abatement is required to be filed by December 20 of the year after the natural disaster.

Continuing law provides for comparable authority for residential homestead properties.

These provisions of the bill are retroactive to tax year 2019. For natural disasters occurring in 2019 or 2020, applications are permitted until December 20, 2022.

The bill also permits county commissions to consider any budgetary restraints of the county or taxing subdivision in evaluating applications for such abatements, rather than only budgetary restraints arising from the event or occurrence declared a disaster by the Governor.

Telecommunications Equipment Inventory and Work-in-Progress

The bill defines telecommunications machinery and equipment to include machinery and equipment placed in inventory or work-in-progress for purposes of the telecommunications machinery and equipment property tax exemption.

Income Tax

SALT Parity Act

The bill enacts the SALT Parity Act (Parity Act), providing certain pass-through entities (entities) with the option of paying state income taxes at the entity level rather than being paid by the individual owners of the pass-through entities.

The Parity Act, which applies for tax year 2022 and thereafter, requires entities to make the election to be subject to tax on a return filed by the entity, which is binding on all owners of the entity.

Entities electing to be subject to the tax are to pay a tax of 5.7 percent on the sum of each resident owner's distributive share of the entity's income and each nonresident owner's distributive share of the entity's income attributable to the State.

Entities electing to be subject to the tax are to be treated as corporations for purposes of estimated tax payments, but are not subject to penalties for underpayment of estimated tax during the first year of election. Any credits allowed for the entities, other than credits for taxes paid to other states, must be claimed by the electing entity.

Excess tax credits and carried forward net operating losses must be carried by electing entities and cannot be claimed by entity owners except when an election by an entity to be subject to tax at the entity is not made or not allowed.

Individual owners of electing entities are not separately or individually liable for entity tax and are entitled to a credit against their individual income for their direct share of the tax imposed on the entity.

Taxes paid by an electing entity to another state on income that is included in the Kansas adjusted gross income of a resident individual taxpayer are to be considered taxes paid to the other state by the resident individual taxpayer for purposes of the credit for taxes paid to other states.

The bill authorizes the Secretary of Revenue to adopt rules and regulations necessary for the implementation of the Parity Act and to require electing entities to furnish information necessary for the implementation of the Act.

Technical College and Community College Contribution Credit

The bill provides a non-refundable tax credit for donors to Kansas technical colleges and community colleges.

"Technical college," as defined by the bill, includes the Flint Hills, Manhattan Area, North Central Kansas, and Salina Area technical colleges, in addition to the Washburn University Institute of Technology and the Wichita State University Campus of Applied Sciences and Technology.

Contributions to a Kansas technical college or community college for capital improvements, deferred maintenance, or technology or equipment purchases are eligible for a 60 percent non-refundable credit against:

- Income tax;
- Insurance premium tax and privilege fees; or
- Financial net income privilege tax.

The credit has an annual limit of $250,000 for each taxpayer, not to exceed $500,000 for any one technical college or community college. The total annual value of credits cannot exceed $5.0 million. Tax credits issued under the program are not refundable or transferable.

Prior to the issuance of any credits under this tax credit program, the bill requires participating technical colleges and community colleges to develop a process for qualifying contributions as allowable deductions from federal adjusted gross income, in consultation with the Secretary of Revenue.

Technical colleges and community colleges must deposit contributions to their capital outlay funds.

The program applies to contributions made after July 1, 2022, and for tax years 2023, 2024, 2025, and 2026.

State Historic Sites Checkoff

The bill requires, beginning in tax year 2023, the individual income tax return form to contain a checkoff enabling taxpayers to make donations to Kansas state-owned historic sites in a specific amount (*e.g.*, $1, $5, $10, or another amount).

The bill requires the Department of Revenue to assign a historic site number to each state-owned historic site to enable taxpayers to select the site to receive the donation.

The bill creates the Kansas Historic Site Fund, administered by the Department of Revenue. The proceeds of any such donation are to be deposited in the Kansas Historic Site Fund. The Department of Revenue must distribute the moneys in the fund to the historic site of the taxpayer's choice to be used for the operation, maintenance, and preservation of the site.

Short-line Railroad Infrastructure Credit

The bill creates an income tax credit for any Class II or Class III railroad or any owner or lessee of rail siding located on or adjacent to a Class II or Class III railroad for tax years 2022 through 2031 equal to 50 percent of the qualified track maintenance expenditures paid or incurred during the taxable year for track located in the state of Kansas. Expenditures used to generate a federal tax credit or funded by a state or federal grant do not result in a credit.

The bill limits the credit to $5,000 per mile of track or per rail siding owned or leased within the state as of the close of the taxable year. A mile of track may be taken into account only once in each taxable year, and the total amount of statewide credits allowed for each taxable year is limited to $8.72 million.

Any unused credit can be carried forward for up to five taxable years. For the five taxable years immediately following the year for which the credits were allowed, the taxpayer earning the credits may transfer the credits to any eligible customer or eligible vendor. The bill requires any transfer of credit to be made by written agreement and requires the agreement to be filed with the Department of Revenue within 30 days of the transfer.

The bill defines an eligible customer as a business that uses short-line railroads or railroad-related property within Kansas, that is served by a short-line railroad, or stores railcars on the short-line railroad. An eligible vendor is defined as a person providing railroad-related services to the taxpayer earning the credits. Eligible customers and eligible vendors do not include Class I railroads.

The bill prohibits the credit from being refundable.

The bill requires the Secretary of Revenue to annually certify the tax credit amount allowed for each eligible taxpayer and authorizes the Secretary of Revenue and Secretary of Transportation to adopt rules and regulations to administer the credit and verify the eligibility of taxpayer expenditures for purposes of the credit.

Aviation and Aerospace Tax Credits

The bill allows employers whose principal business activity involves the aviation sector to receive a nonrefundable income tax credit beginning in tax year 2022 for tuition or certain program-specific course-fee reimbursements paid to a full-time "qualified employee," as defined by the bill, who has graduated from an accredited engineering or technology undergraduate or graduate degree program, an associate of applied science degree program, or a career technical program. This credit can be claimed if the qualified employee, within one year prior to or following the commencement of employment with a qualified employer, graduated from a qualified program. This credit is capped at 50.0 percent of the total amount of tuition reimbursement paid and can be claimed each year, for up to the fourth year of employment with a qualified employer.

The bill also creates, beginning with tax year 2022, a nonrefundable tax credit for taxpayers for an amount equal to 10.0 percent of the compensation paid to qualified employees in each of the first five years of employment, not to exceed $15,000 per year. The credits cannot be carried forward. For the purposes of the bill, compensation does not include benefits or reimbursable expenses.

Additionally, the bill creates, beginning with tax year 2022, a nonrefundable tax credit for taxpayers who become qualified employees during the taxable year. Employees with income tax liability less than $5,000 are eligible to carry any unused credit forward for up to four additional tax years.

The bill authorizes the Secretary of Revenue to adopt rules and regulations to implement and administer these provisions of the bill. The Secretary of Revenue is required to submit annual reports on the cost effectiveness of the program to the House Committee on Appropriations and the Senate Committee on Ways and Means, beginning with the 2023 Legislative Session.

No new tax credits are to be issued or earned after December 31, 2026.

Teacher Classroom Supplies Tax Credit

The bill creates an individual income tax credit for public or private school teachers residing in Kansas equal to the taxpayer's expenditures for school and classroom supplies during the tax year.

The credit is effective beginning in tax year 2022 and will be limited to $250 per year.

Homestead Property Tax Refund Claims

The bill provides for refund claims to be paid to claimants for the amount by which the claimant's residential property tax exceeds the amount of the claimant's property tax in the claimant's base year.

The bill defines "base year" to be the year in which the claimant becomes eligible for a refund under the provisions, or 2021, whichever is later. If a claimant becomes ineligible for a refund, the claimant would continue to use the original base year if the claimant later is again eligible for a refund.

A claimant must be at least 65 years old or a disabled veteran, reside in a homestead with an appraised value of $350,000 or less for the entire year, and have a household income of $50,000 or less. The $50,000 amount is to be annually adjusted by the cost of living adjustment in Section 1(f)(3) of the Internal Revenue Code. Surviving spouses of eligible claimants continue to be eligible unless they remarry. The $350,000 limitation only applies to the claimant's base year.

Claimants for refunds are prohibited from requesting refunds under the existing Homestead Property Tax Refund or Selective Assistance for Effective Senior Relief Credit programs.

Rural Opportunity Zone Program

The bill extends the sunset on the rural opportunity zone student loan repayment program from July 1, 2023, to July 1, 2026. The bill also extends the sunset on the income tax credit and reporting requirements for the Secretary of Commerce from January 1, 2024, to January 1, 2027.

Research and Development Tax Credit

The bill increases the Research and Development Activities Tax Credit from 6.5 percent to 10.0 percent of qualified expenditures and allows the credit to be claimed by all income taxpayers rather than only by corporate income taxpayers.

The bill allows for a one-time transfer of the credit in its entirety by a taxpayer without a current tax liability. The credit will be transferable to any person and could be claimed by that person as a credit against their state income tax liability in the year of the transfer. The transferred credit is non-refundable, but can be carried forward until fully used.

This provision is effective for tax years commencing after December 31, 2022.

Disabled Veterans Additional Personal Exemption Allowance

The bill provides for veterans who have been honorably discharged and 100 percent disabled through military service to receive an additional personal exemption amount of $2,250 from individual income tax beginning in tax year 2023.

Sales Tax

Agricultural Fencing Sales Tax Exemption

The bill creates a sales tax exemption for purchases necessary to reconstruct, repair, or replace a fence used to enclose agricultural land that was damaged or destroyed by wildfire, flood, tornado, or other natural disaster occurring on or after January 1, 2021.

To be eligible for the exemption, the property containing the fence must be located within an area declared to be a disaster by the federal, state, or local government and the purchases must be made within two years of the date of the applicable disaster declaration.

For applicable purchases already made, taxpayers are entitled to a refund of sales tax upon provision of appropriate documentation.

Beginning July 1, 2022, the bill exempts from sales tax all sales of tangible personal property and services necessary to construct, reconstruct, repair, or replace any fence used to enclose agricultural land.

Gage Park Improvement Authority

The bill enacts the Gage Park Improvement Authority Act (Authority Act), providing for the Shawnee County Commission to submit a question to the voters of Shawnee County regarding the creation of a Gage Park Improvement Authority (Authority) and the imposition of a local sales tax to benefit Gage Park, the Topeka Zoo, and the Kansas Children's Discovery Center.

Creation of the Authority and imposition of a tax. The bill authorizes the Shawnee County Commission, after a public hearing and adoption of resolution, to submit to the voters of Shawnee County a question of the creation of the Authority and imposition of a sales tax of at least 0.2 percent and not more than 0.5 percent to benefit Gage Park, the Topeka Zoo, and the Kansas Children's Discovery Center. The bill also requires the Commission to submit the question to the voters upon the submission of a petition signed by Shawnee County voters numbering at least 5 percent of the number of Shawnee County voters voting in the most recent regular county election.

If a majority of voters vote in favor of the Authority and tax, the Authority is to be created and the tax imposed. The tax is to be administered by the Department of Revenue in the same manner as other countywide retailers' sales taxes, except the tax will not count towards Shawnee County's sales tax authority, and the entire proceeds of the tax are to be deposited in the Gage Park Improvement Sales Tax Fund within the State Treasury and remitted at least quarterly to the Authority.

If a majority of the voters do not vote in favor of the Authority and the tax, the question cannot be submitted to the voters again for a period of one year.

If the tax rate submitted to the voters is less than 0.5 percent, the Shawnee County Commission is permitted to submit an additional question to voters at a later date to increase the sales tax rate up to 0.5 percent. If a majority of the voters do not vote in favor of the additional tax, the question cannot be submitted to the voters again for a period of one year.

Any sales taxes enacted pursuant to the Authority Act are to remain in effect unless repealed in the same manner as the approval of the tax.

Authority governance and operation. The Authority is to be governed by a board of seven residents of Shawnee County:

- The Director of Shawnee County Parks and Recreation, or designee;
- The Director of the Topeka Zoo, who may be the head of a nonprofit operator of the Topeka Zoo, or designee;
- The Director of the Kansas Children's Discovery Center, who may be the head of a nonprofit operator of the Kansas Children's Discovery Center, or designee;
- Two members appointed by the Topeka City Council; and
- Two members appointed by the Shawnee County Commission.

Members appointed by the Topeka City Council and Shawnee County Commission will serve three-year terms or until a successor is appointed, but can be removed by the appointing entity. The terms of the directors last as long as the individual is in that position. Any vacancies are to be filled in the same manner as the vacated member was appointed.

The board must annually select a chairperson, vice chairperson, and secretary from its membership and must meet at least quarterly in Shawnee County at a suitable location provided by the County.

A majority of the members of the board constitute a quorum, and no action can be taken by the board without a quorum present and a majority of members present voting in favor of the action.

Authority powers and duties. The Authority is required to distribute and spend the proceeds of the sales tax imposed pursuant to the Act. The proceeds of the first 0.2 percent sales tax are to be distributed as follows:

- 22.0 percent to Shawnee County to be used for the benefit of Gage Park;
- 58.0 percent to the Topeka Zoo and directed to any nonprofit operator of the Topeka Zoo;

- 15.0 percent to the Kansas Children's Discovery Center and directed to any nonprofit operator of the Discovery Center; and

- 5.0 percent at the discretion of the Authority for the improvement, operation, and maintenance of Gage Park, the Topeka Zoo, and the Kansas Children's Discovery Center, community enrichment and outreach, children's educational programming, other items of public benefit and interest related to Gage Park, and the actual and necessary expenses of the members of the Authority in carrying out their duties.

The proceeds of any sales tax in excess of 0.2 percent are to be used as determined by the Authority for the improvement, operation, and maintenance of Gage Park, the Topeka Zoo, and the Kansas Children's Discovery Center, community enrichment and outreach, children's educational programming, other items of public benefit and interest related to Gage Park, and the actual and necessary expenses of the members of the Authority in carrying out their duties.

The Authority has the power to sue or be sued, to enter into contracts, to solicit and receive donations and grants, and to adopt bylaws consistent with the Authority Act.

The Authority has all other necessary and incidental functions and duties consistent with Kansas law to effectuate its purposes provided by the Authority Act. The Authority would be subject to dissolution in the same manner as its creation.

Other provisions. The bill requires Shawnee County to appropriate funds necessary to operate the Authority for the first six months following its creation, after which the Authority must be financed by the sales tax provided by the Authority Act. The Authority is required to keep accounts and records of its transactions that are to be audited periodically as directed by Shawnee County. The Authority must prepare an annual report on its operations and transactions to be submitted to the Topeka City Council and Shawnee County.

The bill also defines relevant terms for the implementation of the Act.

Shipping and Handling Charges

The bill excludes delivery charges that are separately stated on an invoice or similar document from the sales price for purposes of retail sales and compensating use tax.

Motor Vehicle Rebates Sales Tax Exclusion Sunset Repeal

The bill repeals the June 30, 2024, sunset for an exclusion from sales tax of cash rebates granted by manufacturers to purchasers or lessees of new motor vehicles if such rebates are paid directly to retailers.

Countywide Retail Sales Tax Ballot Proposition Language

The bill requires the ballot proposition for any countywide sales tax to include information indicating whether the revenue from the sales tax would be subject to the statutory apportionment formula, whether the county would retain the entirety of the revenue pursuant to

statute, or whether an interlocal agreement is entered into specifying the retention of the amount of revenue by the county.

Wilson County Tax Authority

The bill allows Wilson County to impose, subject to voter approval, a countywide sales tax of up to 1.0 percent in 0.25 percent increments to finance county emergency medical and ambulance services. The proceeds of the tax are not subject to apportionment to the cities within the county.

The tax expires after ten years from the date first collected, but can be extended for additional periods not exceeding ten years, upon voter approval.

City of Latham Sales Tax Election Validation

The bill validates the city of Latham election held on November 2, 2021, for a measure to increase the city sales tax by 0.5 percent, for which notice was first published 20 days prior to the election, instead of 21 days.

Fiscal Effects

The bill is expected to reduce state receipts, as follows.

(Dollars in Millions)

	FY 2023	FY 2024	FY 2025
Homestead Refund Option	$ (6.9)	$ (14.0)	$ (21.6)
Tech. and Comm. College Credit	(5.0)	(5.0)	(5.0)
Short-line Railroad Infrastructure Credit	(8.7)	(8.7)	(8.7)
Teacher Classroom Supplies Tax Credit	(10.4)	(10.4)	(10.5)
Disaster-destroyed Ag. Fencing	(3.4)	(2.2)	(2.2)
Motor Vehicle Rebate Sunset Repeal	-	-	(3.9)
Shipping and Handling Sales Tax	(4.0)	(4.0)	(4.0)
Aviation Tax Credits	(7.9)	(7.9)	(7.9)
Rural Opportunity Zones	-	-	(5.5)
Research and Development Credit	-	(0.9)	(0.9)
Disabled Veteran Personal Exemption	(0.3)	(0.9)	(0.9)
Subtotal State General Fund	*$ (46.6)*	*$ (53.0)*	*$ (71.1)*
Disaster-destroyed Ag. Fencing	$ (0.6)	$ (0.4)	$ (0.4)
Motor Vehicle Rebate Sunset Repeal	-	-	(0.8)
Shipping and Handling Sales Tax	(0.8)	(0.8)	(0.8)
Subtotal State Highway Fund	*$ (1.4)*	*$ (1.2)*	*$ (2.0)*
Telecommunication WIP and Inventory	$ (0.1)	$ (0.1)	$ (0.1)
Residential Property Tax Exemption	(42.8)	(44.5)	(46.3)
Subtotal State School District Finance Fund	*$ (42.9)*	*$ (44.6)*	*$ (46.4)*
Total All Funds	**$ (90.9)**	**$ (99.8)**	**$ (119.6)**

TRANSPORTATION AND MOTOR VEHICLES

Defining and Regulating Electric-Assisted Bicycles; House Sub. for SB 101

House Sub. for SB 101 amends the definition of and regulates the operations of electric-assisted bicycles (e-bikes).

Definitions and E-bike Specifications

"Electric-assisted bicycle" continues to mean a bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor. The bill removes the current specifications of the motor (no more than 1,000 watts, incapable of propelling the device at more than 20 miles per hour [mph] on level ground, and incapable of increasing the speed further above 20 mph when human power alone is used to propel the device) and specifies the electric motor be less than 750 watts and meet the requirements of one of three classes:

- A class 1 e-bike is one equipped with a motor that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of 20 mph;

- A class 2 e-bike is one equipped with a motor that may be used exclusively to propel the bicycle and is not capable of providing assistance when the bicycle reaches 20 mph; or

- A class 3 e-bike is one equipped with a motor that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches 28 mph.

The bill amends definitions in other statutes to exclude e-bikes:

- In vehicle registration statutes and the Uniform Act Regulating Traffic on Highways, from the definitions of "all-terrain vehicle," "electric-assisted scooter," "motor vehicle," "motorcycle," and "motorized bicycle"; the bill also specifically states an e-bike is not considered a motor vehicle;

- In the Vehicle Dealers and Manufacturers Licensing Act, from the definitions of "vehicle" and "motor vehicle"; and

- In the wildlife and parks laws, from the definition of "motor vehicle."

The bill requires, on and after January 1, 2023, manufacturers and distributors of e-bikes to apply a permanently affixed label to a prominent location on each e-bike containing the classification number, top assisted speed, and motor wattage in Arial font in at least nine-point type. The bill prohibits tampering with or modifying an e-bike in a way that changes the motor-powered speed capability or engagement of an e-bike, unless the label indicating the classification is replaced after modification.

The bill requires an e-bike to comply with the equipment and manufacturing requirements of the U.S. Consumer Product Safety Commission in 16 CFR Part 1512.

Operating an E-bike

The bill states an e-bike or its rider shall be afforded all the rights and privileges, and be subject to the responsibilities, of a bicycle or its rider, and an e-bike is a vehicle to the same extent as is a bicycle.

The bill adds an e-bike to the list of types of vehicles that need not be registered. The bill states vehicle liability insurance, a driver's license, a certificate of title, and a license plate also are not required.

The bill states an e-bike may be ridden where bicycles are allowed, including, but not limited to, streets, highways, roadways, bicycle lanes, bicycle or multi-use paths, and trails or trail networks.

The bill states its provisions will not restrict a city, through adopting an ordinance, from governing the operation of e-bikes on streets, highways, and sidewalks under its jurisdiction. Similarly, the bill states its provisions will not prevent a municipality, county, or agency of the State having jurisdiction over a bicycle or multi-use path, trail, or trail network from restricting or prohibiting the operation of an e-bike or a specific class of e-bike on those paths and trails. The bill authorizes a local authority or state agency with jurisdiction over a trail to regulate the use of an e-bike on such trail, including a trail specifically designated as nonmotorized with a natural surface tread made by clearing and grading the native soil with no added surfacing materials.

The bill prohibits operation of a class 3 e-bike by a person younger than 16 but states a person younger than 16 can ride as a passenger if the e-bike is designed to accommodate passengers.

Driver's Education and Transportation Network Companies; SB 215

SB 215 authorizes school district boards of education to contract with transportation network companies for the purpose of transporting eight or fewer people to and from school or school-related activities and transfer authority for certain postsecondary driver's education and driver training schools to the Kansas Department of Revenue (KDOR).

Transportation Network Companies

The bill authorizes a school district board of education to establish requirements in the contract that are in addition to requirements in the Kansas Transportation Network Company (TNC) Services Act (Act). It also authorizes the State Department of Education to issue guidance to school districts on this topic.

The bill requires TNC drivers providing services under these contracts to undergo a criminal history record check like those required of employees or volunteers at a business or organization that provides care to children, people who are elderly, or individuals with disabilities and the TNC to review a driving history research report for each TNC driver.

The bill requires a TNC providing these services to provide an annual safety report to the State Board of Education for any safety incidents occurring within the previous calendar year and to name the school district as an additional insured party on the TNC's automobile insurance policy.

The bill specifies the Act and the contract between a TNC and a school district board of education would govern the services provided, and rules and regulations of the State Board of Education concerning the transportation of students would not apply.

The bill requires a board of education that contracts with a TNC to provide school transportation services to:

- Provide notice to a student's parent or guardian that the student will be riding with a TNC;

- Provide an annual disclaimer to the parent or guardian of a student who may be transported by a TNC, that the school district uses TNC services, and that the relationship between the school district and the TNC is governed by a contract and not the rules and regulations of the State Board of Education;

- Permit the parent or guardian to not allow such student to ride with a TNC; and

- Maintain insurance coverage or endorsement for students transported by a TNC that covers students as though the students were in the care, custody, and control of the school district even when being transported by a TNC.

Driver's Education Courses and Authority

The bill transfers responsibility for motorcycle education and truck driver training programs operated by postsecondary institutions from the State Board of Regents to KDOR and for driver training schools from the State Board of Education to KDOR.

The bill also authorizes a student aged 19 years or younger attending an approved community college driver training course to participate in the State Safety Fund.

The term "vocational education school" within the bill is changed to "institution" and is defined as a "technical school affiliated with a public university in this state, a technical college, or community college."

The bill requires all courses in truck driver training taught for an interstate commercial class license to comply with the Kansas Uniform Commercial Driver's License Act.

A requirement for becoming a licensed teacher at a driver training school is amended from requiring the applicant to provide a certificate of health from a medical doctor declaring such person "free from contagious disease" to one declaring such person "physically and mentally able to safely operate a motor vehicle."

The bill states that all rules and regulations, orders, and directives from the State Department of Education regarding driver's training school licensure will remain in effect until

revised, amended, or nullified by the Director of Vehicles, KDOR. The bill authorizes KDOR to establish standards for motorcycle safety courses and truck driver training by public declaration of the Director of Vehicles, as well as by rules and regulations.

The bill establishes the Commercial Driver Education Fund within the State Treasury under the administration of KDOR. All expenditures from the Fund are subject to appropriations. Moneys collected under the Drivers' Training School License Act will be deposited into this fund rather than into the State Safety Fund.

The bill makes various technical amendments and date changes. The bill makes a conforming amendment to KSA 8-267 to permit moneys in the State Safety Fund to provide funds for driver training courses in community colleges in Kansas.

Autonomous Vehicles; SB 313

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

Definitions

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

Operations of Driverless-capable Vehicles

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

- Is capable of achieving a minimal risk condition (meaning a reasonably safe state that renders the system unable to perform the dynamic driving task, including moving the vehicle to the shoulder, stopping, and activating emergency signal lamps) if a malfunction of the automated driving system occurs;

- Is capable of operating in compliance with applicable traffic and motor vehicle safety laws;

- Bears the required manufacturer's certification label indicating compliance with federal motor vehicle safety standards, when required by federal law, including any reference to any exception granted by the National Highway Traffic Safety Administration;

- Does not exceed 34,000 pounds on tandem axles, until July 1, 2025; and

- Carries a conventional human driver for 12 consecutive months from the date an entity places the driverless-capable vehicle into service in Kansas, unless the

vehicle is not designed, intended, or marketed for human occupancy or the vehicle lacks manual controls.

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

- How to communicate with a fleet support specialist available when the vehicle is in operation and on which side of the vehicle the contact information is visible;
- Information regarding safety considerations for first responders in dealing with the driverless-capable vehicle as the result of collision or fire;
- How to recognize whether the driverless-capable vehicle is in autonomous mode; and
- Any additional information the manufacturer or owner deems necessary regarding hazardous conditions or public safety risks associated with operation of the driverless-capable vehicle.

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

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

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

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

Financial Security

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

Duties if a Crash Occurs

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

- The vehicle owner or person acting on the owner's behalf promptly contacts the applicable law enforcement agency to report the crash; or

- A vehicle so capable alerts a law enforcement agency or emergency services to the crash.

On-demand Driverless-capable Vehicle Networks

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

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

Authority for Regulation

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

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

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

Vehicle Registration

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

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

Commercial Driverless-capable Vehicles

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

- Any provision that by its nature applies only to a conventional human driver does not apply to a commercial motor vehicle operating with the ADS engaged; and

- The vehicle is prohibited from carrying hazardous materials, as defined under the Kansas Emergency Management Act, unless specified federal requirements do not apply and placarding pursuant to federal hazardous materials regulations is not required; these provisions will expire January 1, 2025.

Interpreting the Uniform Act Regulating Traffic on Highways

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

Vehicle Equipment Laws

The bill excludes a driverless-capable vehicle designed to be operated exclusively by the ADS for all trips from motor vehicle equipment law or regulations that support vehicle operation by a conventional human driver, such as requirements for mirrors and windshield wipers, and are not relevant for an ADS.

Autonomous Vehicle Advisory Committee

The bill creates the Autonomous Vehicle Advisory Committee (AV Advisory Committee).

The bill requires the membership of the AV Advisory Committee to include legislators, other appointees, and organization representatives:

- Legislators:
    - Two senators appointed by the President of the Senate;
    - One senator appointed by the Minority Leader of the Senate;

  - Two members of the House appointed by the Speaker of the House; and
  - One member of the House appointed by the Minority Leader of the House;

- Agency officials or their designees:
  - Director of Vehicles;
  - Secretary of Transportation;
  - Superintendent of the KHP; and
  - Two members appointed by the Chairperson of the Kansas Corporation Commission;

- Appointees of the Governor:
  - Two from labor organizations;
  - One each from various industry-related groups:
    - Light duty motor vehicle manufacturers, original equipment manufacturers, original equipment manufacturers trade association, heavy-duty motor vehicle manufacturers, ADS developers, ADS developers trade association, ADS manufacturers, and on-demand transportation network companies;

- Municipality organization appointees:
  - One appointed by the League of Kansas Municipalities; and
  - One appointed by the Kansas Association of Counties; and

- Organization representatives appointed by:
  - ABATE;
  - Kansas State Troopers Association;
  - Kansas Sheriffs Association;
  - Foundation for Traffic Safety; and
  - Kansas Public Transit Association.

The bill directs the Speaker of the House to select an AV Advisory Committee member appointed from the House to serve as chairperson in even-numbered years and the President of the Senate to select a senator who is a member to be chairperson during odd-numbered years. The bill authorizes the Committee to meet at any time upon the call of the chairperson.

The bill requires the AV Advisory Committee to report activities and any recommendations regarding the use or regulation of autonomous vehicles in the state on or before July 1, 2023, and each subsequent July 1. The report will be submitted to the Governor, President of the Senate, and Speaker of the House.

The provisions establishing the AV Advisory Committee will sunset July 1, 2027.

Citations

The bill directs law enforcement officers to deliver a written traffic citation to the owner of the driverless-capable vehicle operating without a conventional human driver by sending the citation by certified mail to the address of the owner. The bill states the registered owner shall be responsible for all applicable traffic law violations, and the owner is considered to be the operator when the ADS is engaged.

Authorizing Certain 15-year-olds to Drive to Religious Activities; Renewal of Nondriver's Identification Cards; SB 446

SB 446 authorizes driving to and from religious activities by 15-year-olds with restricted driver's licenses and authorizes online renewal of nondriver's identification cards under certain circumstances.

Authorizing Certain 15-year-olds to Drive to Religious Activities

The bill allows a 15-year-old who holds a restricted class C or M driver's license to drive, between the hours of 6 a.m. and 9 p.m., directly to or from any religious activity held by a religious organization.

The bill also authorizes a 16-year-old who holds a restricted class C or M driver's license to drive directly to or from a religious activity, rather than a religious worship service as in prior law, under certain circumstances.

"Religious organization" is defined in continuing law in the Motor Vehicle Driver's License Act to mean any organization, church, body of communicants, or group that gathers for religious purposes at a defined place of worship and has a regular schedule of services meeting at least on a weekly basis and has been determined to be organized and created as a *bona fide* religious organization.

Renewal of Nondriver's Identification Cards

The bill requires the Secretary of Revenue to permit electronic online renewal of nondriver's identification cards under certain circumstances.

The bill prohibits consecutive electronic online renewals, and it requires an applicant to have provided documentation of identity, lawful presence in the country, and Kansas residency. The bill also prohibits online renewal for any person who is a registered offender under the Kansas Offender Registration Act. The determination on whether a renewal application is permitted will be made by the Director of Vehicles or the Director's designee.

The bill authorizes the Division of Vehicles (Division), Department of Revenue, to use its most recent color image and signature image of an applicant for an identification card issued through electronic renewal.

The bill requires the Division to report to the House Committee on Transportation and the Senate Committee on Transportation regarding the implementation and effects of the online renewal process outlined in the bill before February 1, 2023.

The bill also authorizes use of either a digital color image or photograph or a laser-engraved photograph of the holder on a nondriver's identification card.

Down Syndrome Awareness License Plate; SB 506

SB 506 authorizes a Kansas Down syndrome awareness distinctive license plate for issuance on or after January 1, 2023, for use on a passenger vehicle or truck registered for a gross weight of 20,000 pounds or less.

The bill authorizes the North Central Kansas Down Syndrome Society (Society) to authorize the use of its logo to be affixed on these license plates.

The bill requires the owner or lessee to pay the Society or the county treasurer a logo use royalty fee of not less than $25 and not more than $100 annually per plate.

The bill requires an applicant to apply at least 60 days prior to a person's renewal of registration date, on a form provided by the Director of Vehicles, Kansas Department of Revenue. The applicant must provide either the annual logo use authorization statement from the Society, or pay to the county treasurer the logo use royalty payment.

This license plate is not transferable to another person; however, the bill authorizes the Director of Vehicles to transfer the license plate from a leased vehicle to a purchased vehicle.

The bill requires the Society to provide an electronic mail address where applicants can contact the organization for information regarding the application process and, with the approval of the Director of Vehicles, to design the license plate.

Under continuing law, Kansas Down syndrome awareness license plates will be issued after the guarantee of an initial issuance of at least 250 license plates, and the North Central Kansas Down Syndrome Society must submit a nonrefundable amount not to exceed $5,000 to defray costs of the Division of Vehicles for developing the distinctive license plate.

Reporting of Visual Condition; Liability for Optometrists and Ophthalmologists; Senate Sub. for HB 2458

Senate Sub. for HB 2458 clarifies law regarding liability for optometrists and ophthalmologists who provide information required for issuance or renewal of an applicant's driver's license.

Previously, no optometrist or ophthalmologist reporting in good faith information regarding visual condition or other ability to safely operate a motor vehicle was subject to a civil action for damages as a result of reporting such information to the Division of Vehicles (Division) of the Kansas Department of Revenue or the Medical Advisory Board.

The bill specifies no optometrist or ophthalmologist reporting to the Division or the Medical Advisory Board in good faith any information relating to vision is liable to any person subsequent to the issuance or the renewal of a driver's license to the applicant.

Distinctive License Plates, Disabled Veteran License Plates, Proof of Veteran Status; HB 2476

HB 2476 adds several types of distinctive license plates, amends law governing eligibility for distinctive license plates for U.S. military veterans, and amends vehicle registration law regarding eligibility for a license plate available to a veteran with a disability, or a person responsible for transporting a veteran with a disability, and creates such license plates with and without the international symbol of access to physically disabled persons.

New Distinctive License Plates

The bill authorizes the creation and issuance of:

- The Silver Star license plate;
- The Bronze Star license plate;
- Four Kansas Department of Wildlife and Parks (KDWP) license plates;
- The City of Hutchinson (Hutchinson) license plate; and
- The Daughters of the American Revolution (DAR) license plate.

For each of these license plates, the bill authorizes issuance of the license plate on or after January 1, 2023, for use on a passenger vehicle, truck with a gross weight of 20,000 pounds or less, or motorcycle to a person having met the criteria for such plates.

The bill requires the application to be made at least 60 days prior to a person's renewal of registration date, on a form provided by the Director of Vehicles (Director), Kansas Department of Revenue (KDOR).

Except for license plates for recipients of the Silver Star or the Bronze Star, under continuing law, any of the license plates will not be issued unless there is a guarantee of an initial issuance of at least 250 license plates, and the sponsor is required to submit a nonrefundable amount of no more than $5,000 to defray costs of the Division of Vehicles, KDOR, for developing the distinctive license plate.

Silver Star and Bronze Star License Plates

The bill authorizes two distinctive license plates related to Silver Star and Bronze Star military honors. The bill requires an applicant to furnish proof satisfactory to the Director of having been awarded either the Bronze Star or Silver Star honor in order to be issued such license plate.

Neither type of license plate is transferable to another person. In the event of the death of any person issued either of these distinctive license plates, the surviving spouse or other

family member, if there is no surviving spouse, is entitled to possession of the distinctive license plate but the license plate can not be displayed on any vehicle unless otherwise authorized by statute. These license plates are exempt from requirements the person receiving the plate pay a distinctive license plate fee, for a minimum number to be ordered before issuance, and for payment of an amount to defray the costs of the Division of Vehicles to develop the license plate.

Kansas Department of Wildlife and Parks License Plates

The bill authorizes issuance of a KDWP license plate to any Kansas resident having proper registration, who has paid the regular license fee and the KDWP royalty fee. The Secretary of Wildlife and Parks determines the amount of the annual royalty fee in an amount not less than $40 nor more than $100.

The license plates are not transferable to another person. The bill authorizes the Director to transfer a plate from a leased vehicle to a purchased vehicle.

The license plates are intended to depict and promote:

- State parks;
- Hunting;
- Fishing; and
- Nongame wildlife.

As a condition of receiving these license plates, the bill requires an applicant's consent for the Division of Vehicles to provide the applicant's motor vehicle information to KDWP and the State Treasurer.

The royalty payments from these license plates are credited to different existing KDWP fee funds based upon the license plate selected:

- For the state parks license plate, all royalty funds are credited to the Parks Fee Fund;
- For the hunting, fishing, or nongame wildlife license plates:
    - An amount equal to the cost of an annual park pass and recreation motor vehicle permit is credited to the Parks Fee Fund; and
    - The remaining balance is credited to the Wildlife Fee Fund.

The bill amends law regarding parks and recreation motor vehicle permits to provide that the issuance of one of these distinctive license plates shall also constitute issuance of a park and recreation motor vehicle permit, giving the driver equivalent rights and access to state parks as an annual permit holder, so long as the registration is current and the plate is displayed on the vehicle as required by law.

City of Hutchinson License Plates

The bill authorizes a Hutchinson license plate. The bill allows the City of Hutchinson to authorize the image of its flag to be affixed on these license plates, and requires the royalty payment to be used to support the Hutch Rec Foundation and park development in Hutchinson.

The purchase of a Hutchinson license plate requires a royalty of between $25 and $100 to the City of Hutchinson or the county treasurer. Payment of the regular license fee is required. The registration or license plate is not transferable to any other person. The bill authorizes the Director to transfer the plate from a leased vehicle to a purchased vehicle. The bill requires the City of Hutchinson to provide to county treasurers an email address for applicant use and, with the approval of the Director, to design the plate.

Daughters of the American Revolution License Plate

The bill authorizes a DAR license plate. The purchase of a DAR license plate requires a royalty of between $25 and $100 to the DAR or the county treasurer. Payment of the regular license fee is required.

The registration or license plate is not transferable to any other person. The bill authorizes the Director to transfer the plate from a leased vehicle to a purchased vehicle. The bill requires the DAR to provide to county treasurers an email address for applicant use and, with the approval of the Director, to design the plate.

Eligibility for Disabled Veteran License Plate

The bill amends vehicle registration law regarding eligibility for a license plate available to a veteran with a disability, or a person responsible for transporting a veteran with a disability, and creating such license plates with and without the international symbol of access to physically disabled persons.

The bill prohibits a disabled veteran distinctive license plate from being printed with the international symbol of access unless the veteran meets the definition of “person with a disability” in law specifying eligibility for accessible parking.

A motor vehicle displaying a distinctive disabled veteran license plate with an international symbol of access is authorized to park in any parking space clearly marked as being reserved for the use of persons with a disability, except a parking space on private property clearly marked as reserved for the use of a specified person with a disability. A vehicle displaying this license plate without the international symbol of access is not be permitted to park in a parking space reserved for the use of persons with a disability. Additional parking privileges for a vehicle displaying this license plate, regarding parking in metered zones and in parking spaces reserved for persons with disability in public parking facilities with parking attendants.

Proof of Veteran Status

The bill amends law governing distinctive license plates for U.S. military veterans or active-duty servicemembers.

The bill states that in an application for a distinctive military license plate, an applicant may provide proof of military veteran status to the Director through a DD214 Form, a DD Form 2 (Retired), or a Kansas driver's license with a veteran designation and removes a reference to providing such proof in accordance with rules and regulations adopted by the Secretary of Revenue. [*Note:* A DD214 Form is issued by the U.S. Department of Defense to certify a person has been discharged from active military duty. A DD Form 2 is issued by the U.S. Department of Defense to identify a person as reserved, retired, or reserve-retired member of the U.S. Armed Forces.]

The bill also adds the U.S. Space Force to the list of military branches for which an active service member or veteran may apply for a distinctive license plate.

Highway and Bridge Designations; HB 2478

HB 2478 designates four portions of highway in honor of deceased public servants, a bridge in Pittsburg in honor of a private citizen, and two bridges in Cherokee County in honor of veterans.

The bill makes the following bridge designations:

- The Dennis Crain Memorial Bridge, a bridge on K-126 between North Grand Street and North Rouse Street in Pittsburg; and
- The Veterans Memorial Bridge, for two bridges, eastbound and westbound spans on K-66 over the Spring River in Cherokee County:
    - Bridge No. 0011-B0072; and
    - Bridge No. 0011-B0005.

The bill makes the following highway designations:

- The Senator Tom R Van Sickle Memorial Highway, a portion of US-69 from its northern junction with US-54 in Bourbon County, then north to the Linn County line;
- The AMM2c Walter Scott Brown Memorial Highway, a portion of US-69 from the northern junction of US-69 and K-52 in Linn County, then south to the southern junction of US-69 and K-52;
- The SGT Evan S Parker Memorial Highway, a portion of US-166 from the junction of US-166 with US-81 in Sumner County, then east to the western city limits of Arkansas City in Cowley County; and
- The PFC Shane Austin Memorial Highway, a portion of US-56 from the northeastern city limits of Edgerton to the southwestern city limits of Gardner in Johnson County.

The bill requires, for each designation, suitable signs to be erected upon the Secretary of Transportation (Secretary) receiving sufficient moneys from gifts and donations to reimburse the Secretary for those costs. Under continuing law, the Secretary must receive reimbursement for the cost of placing such signs and an additional 50 percent of the initial cost from gifts and donations to defray future maintenance or replacement costs of such signs.

Antique Vehicle Restoration; HB 2594

HB 2594 creates an exemption in law related to vehicle identification number (VIN) offenses for antique vehicles.

Except under certain circumstances, Kansas law prohibits the destruction, removal, alteration, or defacing of a VIN when no part of the motor vehicle, trailer, or semitrailer has been stolen and a VIN has been assigned. Any law enforcement officer with knowledge of a vehicle having such a VIN is directed by law to seize and take possession of the motor vehicle or trailer, and the seized vehicle is classified as an article of contraband subject to destruction.

The bill creates an exception from the prohibition when a person removes and reinstalls a VIN or manufacturer's serial number on an antique vehicle, defined in continuing law as a vehicle more than 35 years old, if:

- The removal and reinstallation are necessary for the repair or restoration of the antique vehicle;
- The manufacturer's serial number or VIN is immediately reinstalled after the repair or restoration is complete; and
- The person does not know or has no reason to know that the antique vehicle is stolen.

Titling and Inspection of Antique Vehicles; HB 2595

HB 2595 amends law regarding titling procedures for certain antique vehicles.

The bill changes, from prior to 1950 to 60 years old or older, the vehicle model years for which a bill of sale will be accepted as *prima facie* evidence that the applicant is the owner of the vehicle, if the bill of sale is submitted with a completed application for certificate of title. Continuing law requires the application be made on a form furnished by the Division of Vehicles, Kansas Department of Revenue, and that a certificate of title for the vehicle be issued when those requirements are met.

The bill also changes a requirement for vehicle identification number (VIN) inspection by the Kansas Highway Patrol before a certificate of title for an antique vehicle can be issued if the application and bill of sale are used as proof of ownership, to require such inspection on any vehicle newer than 60 years old rather than model year 1950 or later.

VETERANS AND MILITARY

Kansas Gold Star Families Memorial; SB 330

SB 330 requires the Capitol Preservation Committee to approve plans to place a permanent memorial honoring Kansas Gold Star families on the Statehouse grounds. [*Note:* "Gold Star families" are families who have lost a family member in the line of military duty.]

The bill authorizes the Secretary of Administration to receive and expend moneys for the purpose of financing the creation and construction of the memorial and to remit all moneys received for such purpose to the State Treasurer.

The bill establishes the Kansas Gold Star Families Memorial Fund and authorizes the State Treasurer to deposit funds received for the purpose of financing the creation and construction of the memorial in the State Treasury to the credit of the Fund. Expenditures from the Fund are authorized for the creation and construction of the memorial and for other purposes as may be required by the grantor or donor.

The bill prohibits the expenditure of public funds for the creation or construction of the memorial.

WILDLIFE AND PARKS

Requirements for Certain Hunting, Fishing, and Furharvesting Licenses; SB 451

SB 451 removes a requirement for a Kansas resident to provide satisfactory proof that the person is at least 1/16 Indian by blood for purposes of receiving a free, permanent license to hunt, fish, and furharvest in the state.

The bill also changes the definition of "federally recognized tribe," for purposes of the bill, to an Indian tribe that appears on the list of Indian tribes published by the Secretary of the Interior, in accordance with the Federally Recognized Indian Tribe List Act of 1994. [*Note:* The bill retains an additional requirement, that a person must maintain enrollment on a tribal membership roll maintained by a federally recognized tribe.]

Hunting and Fishing Licenses; HB 2456

HB 2456 requires the Secretary of Wildlife and Parks (Secretary) to issue a Kansas kids lifetime combination hunting and fishing license (kids license).

The bill makes available the kids license for:

- Any child who is five years of age or younger and a Kansas resident upon payment of a license fee that shall not exceed $300; and
- Any child who is six or seven years of age and a Kansas resident upon payment of a license fee that shall not exceed $500.

The license fee can be paid on behalf of the child.

The bill requires the Secretary to submit an annual report to the House Committee on Agriculture and Natural Resources Budget and the Senate Committee on Agriculture and Natural Resources on the number of kids licenses issued.

The authority to issue the kids licenses expires on July 1, 2032.

APPROPRIATION BILLS

House Sub. for Sub. for SB 267 contains FY 2022 supplemental funding, claims against the State, FY 2023 funding for most state agencies, and FY 2023 capital improvement expenditures for certain state agencies. **HB 2510**, the Omnibus Appropriations Bill, includes various mid-year expenditure adjustments as well as funding for bills enacted by the 2022 Legislature. [*Note:* The bill does not include funding for K-12 education, which is contained in Senate Sub. for HB 2567.]

SB 421 transfers $1.125 billion from the State General Fund (SGF) directly to the Kansas Public Employees Retirement System (KPERS) Trust Fund. Of that amount, the first $253.9 million SGF pays off outstanding accounts receivable for KPERS-School employer contributions withheld in FY 2017 and FY 2019 ("layering payments") while the remaining $871.1 million SGF is applied to the KPERS-School unfunded actuarial liability.

Senate Sub. for HB 2567 makes appropriations for the Kansas State Department of Education (KSDE) for FY 2022, FY 2023, and FY 2024, makes adjustments to the Kansas School Equity and Enhancement Act (KSEEA), and amends various provisions of law related to K-12 Education.

TECHNICAL AND REPEALED BILLS

Senate Sub. for HB 2492 This bill reconciles amendments to statutes that were amended more than once during the current and prior legislative sessions. For such statutes, the bill repeals one version and amends the continuing version with noncontradictory amendments from the repealed version to create a single version of the statute containing all amendments.

HB 2591 This bill repeals the statute that authorized quarterly $100,000 State General Fund and $200,000 Conservation Fee Fund transfers to the Abandoned Oil and Gas Well Fund in the Kansas Corporation Commission.

HB 2299 [Repealed] This bill created and amended law related to fingerprinting for criminal history record checks, surveillance by Kansas Department of Wildlife and Parks employees, jurisdiction of law enforcement officers, the time period within which a search warrant must be executed, and disclosure of information to law enforcement agencies regarding a child alleged or adjudicated to be a child in need of care (CINC). [*Note:* The changes to law contained in HB 2299 were subsequently passed and enacted in Senate Sub. for HB 2495.]

BILLS VETOED BY THE GOVERNOR

Sub. for SB 34

This bill would have created law regarding actions by governmental entities or public officials affecting face mask requirements as a response to a contagious or infectious disease and prohibited a COVID-19 vaccination passport from being required by any governmental entity or public official.

The bill would have amended the Kansas Emergency Management Act and public health statutes regarding face mask requirements and judicial review of governmental action in response to state of disaster emergencies and state of local disaster emergencies. The bill would have removed the authority of the Secretary of Health and Environment or a local health officer to order any law enforcement officer of the state or any subdivision to assist in the execution or enforcement of any order regarding infectious and contagious diseases. The bill also would have amended student health statutes regarding certification of tests or inoculations for first-time enrollment in a school or preschool or day care program operated by a school to specify the tests or inoculations the Secretary is prohibited from requiring.

SB 58

This bill would have established the Parents' Bill of Rights, which enumerates 12 rights reserved by the State for parents. Such enumerated rights would have included the right to direct the education and care of the parent's child and the right to direct the upbringing and moral or religious training of the parent's child. The bill also would have required the board of education of each school district to develop and adopt policies to guarantee parents' rights.

SB 160

This bill would have created the Fairness in Women's Sports Act and required interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by public educational institutions to be designated based on biological sex.

SB 161

This bill would have created law related to personal delivery devices. The bill would have defined "personal delivery devices" and excluded such devices from certain definitions in Kansas vehicle registration law. The bill also would have authorized these devices to operate on any sidewalk, crosswalk, or the shoulder or right side of any public highway of any municipality.

SB 199

This bill would have amended law in the Insurance Code governing specially designed policies and short-term policies to update references to short-term limited-duration (STLD) policies. The bill would have specified a policy period of less than 12 months and a policy that offers renewal or extension periods up to a maximum policy period of 36 months total in duration for STLD policies. The bill also would have removed language specifying the benefits or services that

could be included in specially designed policies and language required to be included in contracts and application material by insurance companies issuing STLD policies.

House Sub. for Sub. for SB 286

This bill would have amended and extended the expiration dates and effectiveness of provisions regarding the governmental response to the COVID-19 pandemic; amended certain health care provider immunity provisions related to the COVID-19 public health emergency; created the crime of interference with the conduct of a hospital; and increased the penalty for the crime of battery when committed against a health care provider.

SB 493

This bill would have prohibited municipalities from adopting or enforcing an ordinance, resolution, or regulation that restricts, taxes, prohibits, or regulates the use of auxiliary containers. An "auxiliary container" would have been defined in the bill as a plastic straw or a bag, cup, package, container, bottle, device, or other packaging, without limitation.

Bills Vetoed (Line Item, Appropriations)

House Sub. for Sub. for SB 267

This bill contains FY 2022 supplemental funding, claims against the State, FY 2023 funding for most state agencies, and FY 2023 capital improvement expenditures for certain state agencies.

(Line item) *KPERS—Exclusive Opportunity for Legislators* – Section 43(d) would have added language allowing any member of the Legislature to become a member of the Kansas Public Employees Retirement System provided said member previously elected not to participate in the system. Such elections would have been required to be completed before the beginning of the 2023 Session.

(Line item) *State Board of Regents—Special Line Item for Single Program* – Section 109(a) would have added $200,000 SGF to a newly created Benedictine College Engineering Program account for FY 2023.

HB 2510

This bill (the Omnibus Appropriations Bill), includes various mid-year expenditure adjustments as well as funding for bills enacted by the 2022 Legislature.

(Line item) *State Board of Regents—Proviso Allowing Universities to Raise Tuition* – Section 36(b) would have removed language from House Sub. for Sub. for SB 267 to not increase tuition in FY 2023.

BILLS VETOED BY THE GOVERNOR, BUT OVERRIDDEN

Sub. for SB 355

This bill redraws the state's four congressional districts using data obtained from the 2020 Census (Map Name: Ad Astra 2).

Senate Sub. for HB 2252

This bill amends law regarding modifying election laws by agreement. The bill prohibits the Governor, the Secretary of State, and any other officer in the Executive Branch from entering into a consent decree or other agreement with any state or federal court or any agreement with any other party regarding the enforcement of election law or the alteration of any election procedure without specific approval by the Legislature.

HB 2387

This bill creates law related to the medical assistance program and amends law regarding the powers of the Governor in the Kansas Emergency Management Act (KEMA).

Senate Sub. for HB 2448

This bill requires the Department for Children and Families to assign all able-bodied adults without dependents (ABAWDs) subject to the food assistance work requirements established by federal law to an employment and training program as defined in 7 U.S.C. § 2015(d)(4). The provisions of the bill apply only to ABAWDs aged 18 through 49 and only to individuals who are not employed at least 30 hours per week.

SUBJECT INDEX

Alcohol and Drugs

Boards, Commissions, and Committees

Bonds

Business, Commerce, and Labor

COVID-19

Children and Youth

Civil Matters

Civil Penalties

Crimes and Criminal Matters

Disability Rights

Housing

Immigration

Insurance

Judiciary

Law Enforcement

Legislature

Licenses, Permits, and Registrations

Local Government

Native Americans

Open Records

Postsecondary Education

Professions and Occupations

Public Safety

Taxation

Telecommunications

Transportation and Motor Vehicles

Uniform Laws

Utilities

Veterans and Military

Water

Wildlife and Parks

NUMERICAL INDEX OF BILLS
House Bills and Resolutions

NUMERICAL INDEX OF BILLS
Senate Bills and Resolutions