

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

**KLIRD**

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

This updated version of the March 28, 2022, publication contains summaries of selected bills passed by the Legislature from March 28 to adjournment on April 2. Bills that have not yet been signed by the Governor are included.

The first Preliminary Summary containing summaries of major bills that were enacted through the end of the legislative day, March 23, 2022, was distributed on March 28, 2022. A final supplement will be mailed after the wrap-up session in May.

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

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

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## AGRICULTURE AND NATURAL RESOURCES

### **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.

### **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.

### **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***

Under current law, persons may not consume alcoholic liquor on the State Fairgrounds unless the consumption falls within certain exceptions, including:

- Domestic wine and beer or wine imported under a farm winery license and consumed for purposes of judging competitions;
- During certain permitted events of 75 people or less that are not a part of the annual State Fair event; or
- During the State Fair event, in certain premises subject to a temporary permit that authorizes the sale and service of wine or beer.

The bill amends these provisions 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 require 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***

Under current law, 25.0 percent of remitted liquor drink taxes are distributed to the State General Fund (SGF) and 5.0 percent of remitted liquor drink taxes are distributed to the Community Alcoholism and Intoxication Programs Fund, with the remaining taxes distributed to the Local Alcoholic Liquor Fund.

The bill requires 30.0 percent of the liquor drink taxes collected on the State Fairgrounds to be remitted to the SGF and the remaining taxes to be distributed to the State Fair Capital Improvements 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, as well as in the same or in an adjacent county as the licensee's premises as in current 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 take 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, 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 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.

## COURTS

### **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;



**Specialty Court Programs; Douglas County Law Library Board of Trustees; Senate Sub. for HB 2361**

- 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.

## **CRIMES AND CRIMINAL MATTERS**

### **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.

### **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 shall be required to 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 the minimum 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 (DCF).

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 currently 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.”

Under current law, “possession” is 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 existing provisions within the statute and makes other technical amendments to ensure consistency in statutory phrasing and organization.

### ***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. Under current law, 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,” and technical changes are made to ensure consistency in statutory style, references, and phrasing.

## 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.”

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

### ***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 best 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.



## EDUCATION

### Parents' Bill of Rights; SB 58

**SB 58** establishes the Parents' Bill of Rights.

The bill states that all parents have a right to direct the upbringing, education, care, and mental health of their child. The bill also enumerates 12 rights reserved by the State for parents with regard to their child. Such enumerated rights include, but are not to be limited to, 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 requires the board of education of each school district to develop and adopt policies to guarantee parents' rights. Such policies include a parent's ability to:

- Be informed of and inspect any materials, activities, curriculum, syllabi, surveys, questionnaires, books, magazines, handouts, professional development and training materials, and other materials provided to the parent's child;
- Inspect and review all educational and health records of the parent's child maintained by the school district;
- Object to any learning material or activity based upon harm to the child or impairment of the parent's firmly held beliefs, values, or principles and withdraw the parent's child from said activity; and
- Challenge the material or educational benefit of any book, magazine, or other material available to students in the school library, the successful result of which is to lead to the removal of the item from the school.

The bill defines the term "parent" as a parent, guardian, custodian, or any other person who has authority to act on behalf of a child.

### 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 programming 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.

## Fairness in Women’s Sports Act; SB 160

**SB 160** creates the Fairness in Women’s Sports Act (Act) and requires interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by public educational institutions to be designated based on biological sex.

### *Athletic Team Criteria*

The bill requires all interscholastic, intercollegiate, intramural, and club athletic teams that are sponsored by public elementary, secondary, and postsecondary institutions that compete against teams from other public educational institutions to be expressly designated as one of the following, based on the biological sex of the team members:

- Males, men, or boys;
- Females, women, or girls; or
- Coed or mixed.

The bill states athletic teams or sports designated for females, women, or girls shall not be open to students of the male sex.

[*Note:* The bill does not exclude students of the female sex from participating on athletic teams designated for males, men, or boys.]

### *Rules and Regulations*

The bill requires the Kansas State High School Activities Association (KSHSAA), the Kansas Board of Regents, and the governing bodies for municipal universities, community colleges, and technical colleges to adopt rules and regulations for the implementation of the designations of their athletic teams.

### ***Prohibition of Complaints***

The bill prohibits governmental entities, licensing organizations, accrediting organizations, or athletic associations or organizations from taking the following actions against public educational institutions that maintain separate teams for students of the female sex:

- Entertaining a complaint;
- Opening an investigation; or
- Taking other adverse actions.

### ***Resolving Violations***

In the event of a violation of the Act, the bill allows the following individuals and organizations to file civil suit and seek relief in the form of monetary damages, reasonable attorney fees, and other appropriate relief:

- Any student deprived of an athletic opportunity or who suffers direct or indirect harm by a violation of the Act;
- Any student subjected to retaliation or other adverse action by a public educational institution or athletic association for reporting a violation of the Act; or
- Any public education institution that suffers direct or indirect harm as a result of a violation of the Act.

The bill requires all civil actions to be initiated no later than two years after the harm occurred.

### ***Severability***

The bill declares all sections of the Act to be severable in the event one or more sections are determined to be invalid.

## FINANCIAL INSTITUTIONS

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

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 (Section 2)***

The bill amends provisions that currently 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 would 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 would 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 would not be subject to TEFFI Act provisions pertaining to capitalization requirements, organization and control, and naming restrictions. The State Bank Commissioner (Commissioner) would 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 (Section 3)***

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 would 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 (Section 4)***

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 (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 would not apply;
  - The bill, however, further specifies the provisions of Chapter 9 would 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 (Section 5)***

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 (Section 6)***

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 (Section 7)***

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  
(Section 8)***

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 (Section 9)***

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 (Section 10)***

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 (Section 12)***

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.”

## HEALTH

### **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.

The provisions of the bill relating to K-TRACS will take effect upon publication in the *Kansas Register*.

### ***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 currently does not issue 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.

### **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*

Current 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 that currently permits 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 ARPNS.

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.



## 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 (New Section 1, Sections 2-8)***

##### *Disciplinary Action (New Section 1)*

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 (Section 2)*

The bill renames KSA 40-3821 through KSA 40-3828 from the Pharmacy Benefits Registration Act to the Pharmacy Benefits Manager Licensure Act, adds section 1 of the bill to 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 (Section 3)*

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 (Section 4)*

**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 (Section 5)*

The bill maintains the current (registration) expiration date of March 31 each year, providing a PBM license would 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 (Section 6)*

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 (Section 7)*

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 (Section 8)*

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 (Sections 9-10)***

##### *MAC Pricing and Definitions (Section 9)*

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 (Section 10)*

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).

### **Short-term, Limited-duration Health Plans; SB 199**

**SB 199** amends law in the Insurance Code governing specially designed policies and short-term policies to update references to short-term limited-duration (STLD) policies.

Under current law, “short-term” means an insurance policy period of 6 or 12 months, based upon policy design, which offers not more than one renewal period with or without a requirement of medical re-underwriting or medical requalification. The bill amends this definition to update the term to “short-term, limited-duration” and specifies 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.

The bill removes language specifying the benefits or services that may be included in specially designed policies. The definition of “specially designed policies” is updated to provide that these policies are issued on a short-term, limited-duration basis. The bill also removes language required to be included in contracts and application material by insurance companies issuing STLD policies.

### **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.

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

### **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

### **Governmental Response to COVID-19 Pandemic; Health Care; Businesses; Immunity; Interference With the Conduct of a Hospital; Battery Against a Health Care Provider; House Sub. for Sub. for SB 286**

**House Sub. for Sub. for SB 286** amends and extends the expiration dates and effectiveness of provisions regarding the governmental response to the COVID-19 pandemic; amends certain healthcare provider immunity provisions related to the COVID-19 public health emergency; creates the crime of interference with the conduct of a hospital; and increases the penalty for the crime of battery when committed against a healthcare provider.

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

#### ***Governmental Response to the COVID-19 Pandemic***

The bill extends the expiration dates and effectiveness of various provisions regarding the governmental response to the COVID-19 pandemic from March 31, 2022, until January 20, 2023. For the provisions that expired on March 31, 2022, the bill states that notwithstanding this expiration, the provisions will be in force and effect on and after the effective date of the bill.

The provisions that are extended include:

- Expansion of telemedicine;
- Use of hospital beds and non-hospital space;
- Immunity from civil liability for health care providers related to the COVID-19 public health emergency;
- Immunity from civil liability for COVID-19 claims for businesses in substantial compliance with public health directives;
- Retroactivity provisions regarding immunity from civil liability; and
- Bed usage by critical access hospitals.

The bill also amends the provisions regarding immunity from civil liability for health care providers. Previous law provided health care providers with immunity from civil liability for damages, administrative fines, or penalties for acts, omissions, health care decisions, or the rendering of or the failure to render health care services, including services that are altered, delayed, or withheld, as a direct response to the COVID-19 public health emergency. The bill limits the applicability of this immunity provision to health care providers that are not employed by or providing health care services at a medical care facility, as defined in statutes governing standards for such facilities. In addition to the extension of this provision until January 20, 2023, the bill states the provision will apply to such claims accruing on or after March 30, 2022, and prior to the effective date of the bill. [Note: Under continuing law, the immunity period began March 12, 2020.]

For health care providers employed by or providing health care services at a medical care facility, the bill provides immunity from civil liability for damages, administrative fines, or penalties that arise out of or relate to acts, omissions, health care decisions, or the rendering of or the failure to render health care services, including services that are altered, delayed, or withheld, related to the COVID-19 public health emergency. This immunity shall not apply to a health care provider employed by or providing health care services at a medical care facility that denies health care services to a person at such medical facility based solely on such person's COVID-19 vaccination status. Additionally, the bill provides that this immunity will apply to any claims for damages or liability that arise out of or relate to acts, omissions, or health care decisions occurring between the effective date of the bill and January 20, 2023, related to the COVID-19 public health emergency, and will apply to any cause of action accruing on or after the effective date of the bill and prior to January 20, 2023.

### ***Interference With the Conduct of a Hospital***

The bill creates the crime of interference with the conduct of a hospital, defined as:

- Conduct at or in a hospital so as to knowingly deny an employee of the hospital to enter, to use the facilities of, or to leave any such hospital;
- Knowingly impeding any employee of a hospital from the performance of such employee's duties or activities through the use of:
  - Restraint with the intent to prevent such employee from freely moving to a different location or to provide care for another person;
  - Abduction, coercion, or intimidation; or
  - By force and violence or threat thereof; or
- Knowingly refusing to leave a hospital upon being requested to leave by the employee charged with maintaining order in such hospital, if such person is committing, threatens to commit, or incites others to commit any act that did, or would if completed, disrupt, impair, interfere with, or obstruct the mission, processes, procedures, or functions of the hospital.

The bill also creates the crime of aggravated interference with the conduct of a hospital, which is defined as any of the above conduct when in possession of any weapon included in the crimes of criminal use of weapons or criminal carrying of a weapon.

For purposes of the new crimes, the bill defines "employee" to mean a person employed by, providing health care services at, volunteering at, or participating in an educational course of instruction at a hospital; and defines "hospital" to mean the same as defined in statutes governing the licensing, inspection, and regulation of hospitals.

Interference with the conduct of a hospital is a class A nonperson misdemeanor, and aggravated interference with the conduct of a hospital is a severity level 6 person felony.

### ***Battery Against a Health Care Provider***

The bill amends the crime of battery to define battery against a health care provider as a battery committed against a health care provider while such provider is engaged in the performance of such provider's duty. "Healthcare provider" is defined to mean a person who is licensed, registered, certified, or otherwise authorized by the State of Kansas to provide health care services in this state and employed or providing health care services at a hospital. Battery against a health care provider is a class A person misdemeanor.

### **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.

### ***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 have to 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 current 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 current 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 would 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.

## LAW ENFORCEMENT

### **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 History Record Checks; Surveillance by KDWP;  
Law Enforcement Officer Jurisdiction; Search Warrant Time Limits; Disclosure of  
Information Regarding Children in Need of Care; HB 2299**

**HB 2299** 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).

***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 will 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 may 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 must 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 must 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 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;
- 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 would be 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 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 may freely exchange information and the above-described records with persons or entities specified in continuing law.

The bill also 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.

## LEGISLATURE

### **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.

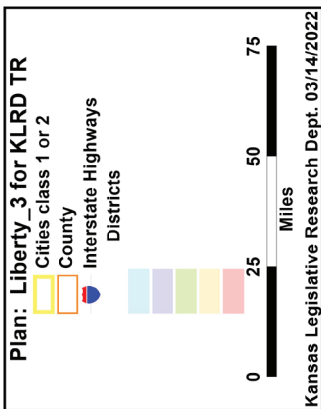
The bill requires the Attorney General to certify to the Secretary of State that the Supreme Court has entered a judgment that 2022 Sub. for SB 563 is a valid reapportionment of state Senate districts. The Secretary of State, upon receipt of the notice of certification, is required to have such notice of certification published in the *Kansas Register*.

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

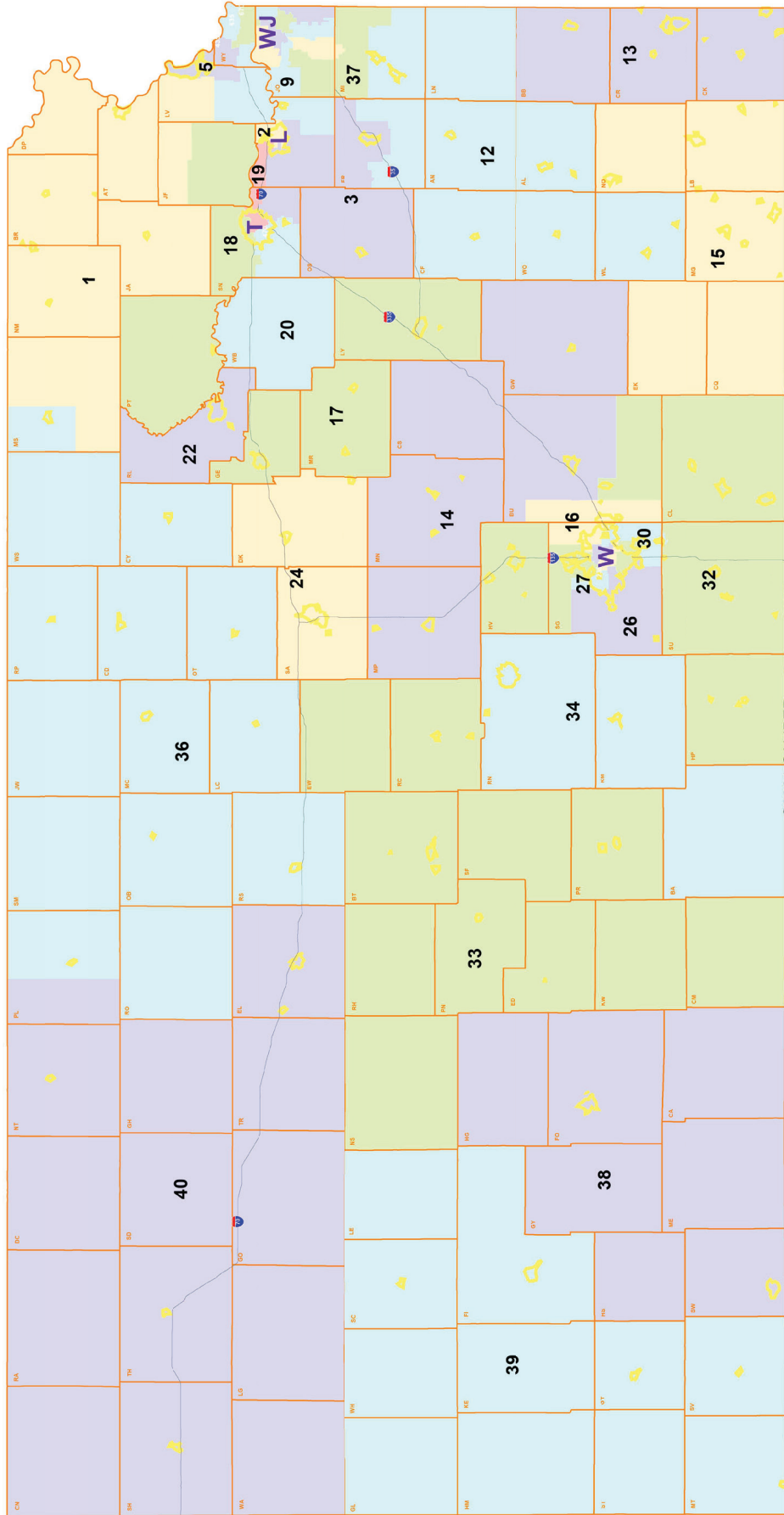
The Liberty 3, Free State 3F, and Apple 7 maps are included on the following pages. Visit [www.kslegresearch.org/KLRD-web/Redistricting.html](http://www.kslegresearch.org/KLRD-web/Redistricting.html) to view all proposed district plans with more detailed information and maps.

Liberty\_3 for KLRD TR

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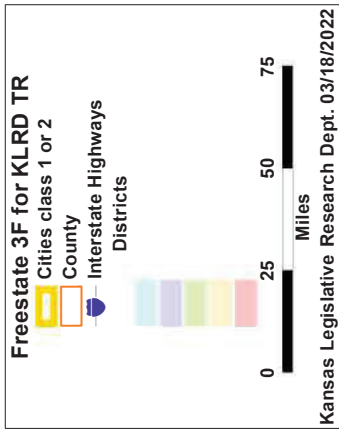


NOTE: In urban areas, VTD boundaries and highways have been hidden so that other information can be displayed. Detailed maps of urban areas follow this statewide map.

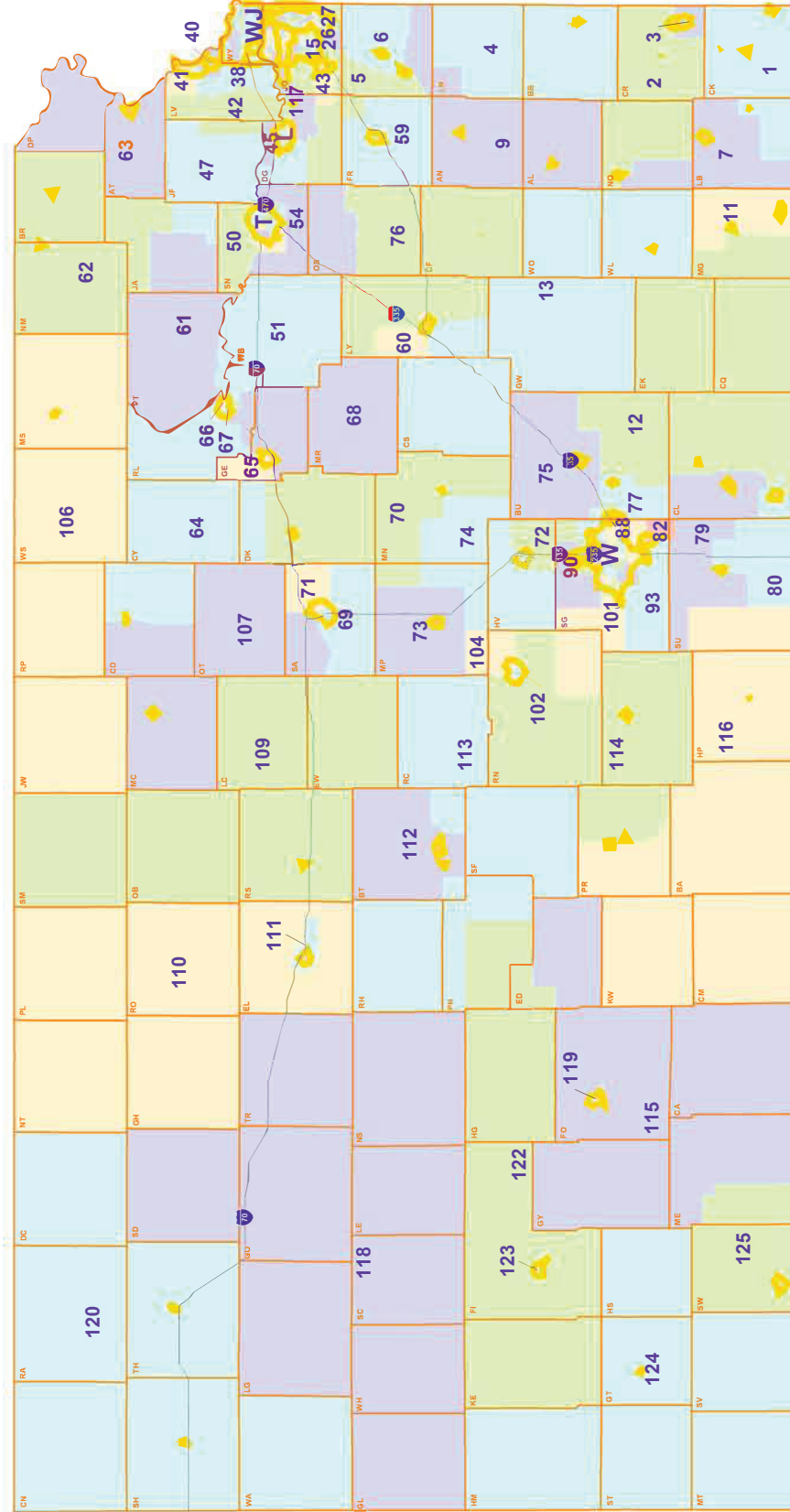


W= Wichita districts 16, 25-31      T=Topeka districts 18-20      L=Lawrence districts 2, 3, 19      WJ=Wyandotte and Johnson County districts 4-11, 21, 23, 35, 37

Freestate 3F for KLRD TR



NOTE: In urban areas, VTD boundaries and highways have been hidden so that other information can be displayed. Detailed maps of urban areas follow this statewide map.



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W= Wichita districts 81-101, 103, 105 T=Topeka districts 50,52-58 L=Lawrence districts 10,42,44-47 WJ=Wyandotte and Johnson County districts 5,8,14-37,39,43,48,49,78,108,121

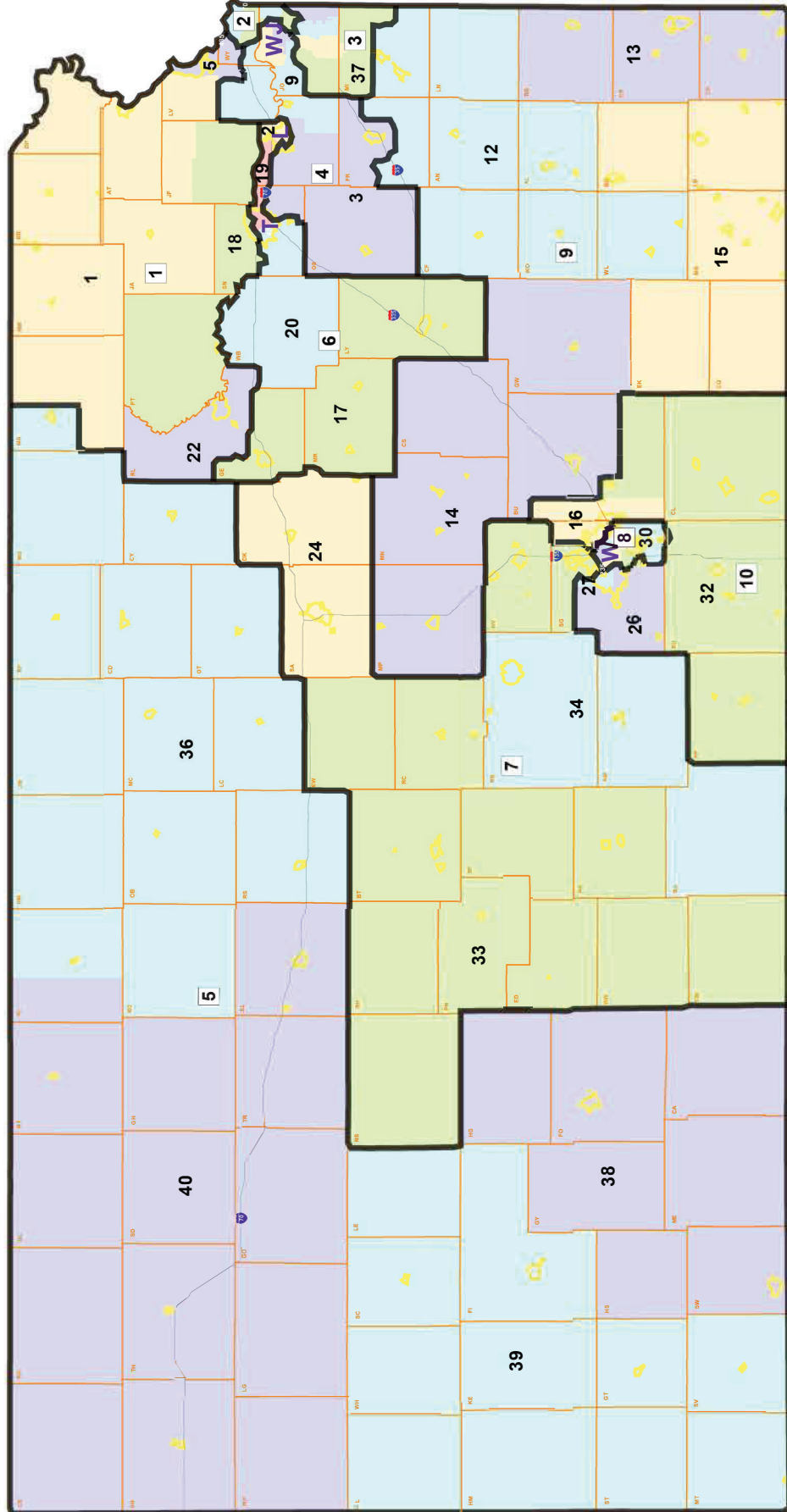
Apple7 for KLRD TR

State Board of Education (SBOE) districts are based on Senate districts.

SBOE District Senate Districts

- 1 1,5,18,22
- 2 4,6,7,8
- 3 11,23,35,37
- 4 3,9,10,21
- 5 36,38,39,40
- 6 2,17,19,20
- 7 24,31,33,34
- 8 25,28,29,30
- 9 12,13,14,15
- 10 16,26,27,32

NOTE: In urban areas, VTD boundaries and highways have been hidden so that other information can be displayed. Detailed maps of urban areas follow this statewide map.



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W= Wichita districts 16, 25-31

T=Topeka districts 18-20

L=Lawrence districts 2, 3, 19

WJ=Wyandotte and Johnson County districts 4-11, 21, 23, 35, 37

## LOCAL GOVERNMENT

### Prohibiting Municipal Restrictions on Plastic Containers and Straws; SB 493

**SB 493** prohibits municipalities from adopting or enforcing an ordinance, resolution, or regulation that restricts, taxes, prohibits, or regulates the use of auxiliary containers.

The bill defines “auxiliary container” as a plastic straw or a bag, cup, package, container, bottle, device, or other packaging, without limitation. Such auxiliary containers can be made out of cloth, paper, plastic, foamed plastic, expanded plastic, cardboard, corrugated material, aluminum, glass, postconsumer recycled material, or any similarly coated or laminated material.

The bill defines a “municipality” for this purpose as a city, county, or unified government.

Municipalities are expressly allowed to operate composting, recycling, and solid waste disposal programs, and regulate the use of containers on property owned or maintained by a municipality. The bill expressly exempts the following activities from the prohibition:

- Passing or enforcing a general sales and use tax;
- Restricting use of glass containers within the municipality for reasons of public safety;
- Prohibiting littering; and
- Setting reasonable standards for the regulation of alcohol possession.

### 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 current 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 current 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.

The bill uses existing law to define “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 would be able to 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

### **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 was 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 is required to 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 would 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.



## 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 (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 State Highway 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 are 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	<u>8,867.6</u>	<u>7,793.7</u>	<u>8,964.7</u>
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
<b>Ending Balance</b>	<b><u>\$ 2,094.8</u></b>	<b><u>\$ 2,236.4</u></b>	<b><u>\$ 6,580.8</u></b>
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).]

## STATE GOVERNMENT

### **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***

Current law requires, 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.

Under current law, the Director is also 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***

Current law requires proposed rules and regulations 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. Agency numbers are 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 rules and regulations 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.

### **State Symbols, State Fruit; HB 2644**

**HB 2644** designates the Sandhill plum, also known as the Chickasaw plum, as the official state fruit.

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

## TAXATION

### 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. Current law limits the consideration to 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)
<i>Subtotal State General Fund</i>	<i>\$ (46.6)</i>	<i>\$ (53.0)</i>	<i>\$ (71.1)</i>
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)
<i>Subtotal State Highway Fund</i>	<i>\$ (1.4)</i>	<i>\$ (1.2)</i>	<i>\$ (2.0)</i>
Telecommunication WIP and Inventory	\$ (0.1)	\$ (0.1)	\$ (0.1)
Residential Property Tax Exemption	(42.8)	(44.5)	(46.3)
<i>Subtotal State School District Finance Fund</i>	<i>\$ (42.9)</i>	<i>\$ (44.6)</i>	<i>\$ (46.4)</i>
<b>Total All Funds</b>	<b>\$ (90.9)</b>	<b>\$ (99.8)</b>	<b>\$ (119.6)</b>

## 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.

### **Personal Package Delivery Devices; SB 161**

**SB 161** creates law related to personal delivery devices.

The bill defines "personal delivery device" as a powered device operated primarily on sidewalks and crosswalks and intended primarily for the transport of property on public rights-of-way that does not exceed 550 pounds, excluding cargo, and is capable of navigating with or without the active control or monitoring by a person. The bill excludes personal delivery devices from the definitions of "motor vehicle" and "vehicle" in Kansas vehicle registration law.

**Operations.** The bill authorizes personal delivery devices to operate on any sidewalk, crosswalk, or the shoulder or right side of any public highway of any municipality.

Personal delivery devices are required to:

- Yield to all vehicles and not unreasonably interfere with traffic;
- Not block public rights-of-way;
- Obey all traffic signals;
- Operate at a maximum speed of ten miles per hour on sidewalks;

- Prominently display a unique identifying number;
- Prominently display the identification and contact information of the entity operating the personal delivery device; and
- Be equipped with a system that enables the device to come to a controlled stop and be actively controlled by an operator of the device.

The bill assigns personal delivery devices the right-of-way obligations and responsibilities of pedestrians when such devices are operating on sidewalks or crosswalks. The bill requires any personal delivery device operating between sunset and sunrise or on any public highway to be equipped with both front and rear lighting visible on all sides in clear weather from a distance of at least 500 feet.

**Insurance.** The bill requires any entity operating a personal delivery device to maintain general liability insurance coverage of at least \$500,000 for damages arising from the operation of the device.

**Additional restrictions.** The bill requires personal delivery devices to be able to determine the proximity of other objects and have an audible warning system capable of notifying blind persons of the presence of the device. Personal delivery devices are not permitted to transport hazardous materials, as that term is defined under federal law.

**Annual fee.** The bill requires each entity operating a personal delivery device to pay an annual fee of \$50 for each personal delivery device to the Division of Vehicles, Kansas Department of Revenue, and to submit an annual certification form providing information, including information on the entity and the entity's registered agent; acknowledgment of certain operating requirements and liability; a list of traffic incidents or infractions involving any personal delivery device operated by the entity in Kansas in the previous year; and a list identifying each such device. A new fee and updated certification is required for any new personal delivery device. The bill directs the fees to the State Highway Fund.

**Local regulation.** The bill authorizes local units of government to prohibit personal delivery devices by resolution or ordinance if such government determines prohibition is necessary in the interest of public safety. The bill requires a public hearing before enacting an ordinance or resolution to restrict personal delivery devices and specifies requirements for notice of that hearing. The bill prohibits a political subdivision from regulating the design, manufacture, and maintenance of a personal delivery device or the types of property the device may transport. The bill states these provisions will not prohibit a political subdivision from regulating personal delivery device operation to ensure the welfare and safety of the political subdivision's residents. The bill also prohibits a political subdivision from treating personal delivery devices differently from similar personal property.

## **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 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.

### **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 current 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.

### **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.

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

### **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 (New Sections 1 and 2; Sections 7 and 9)***

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 (New Section 3; Section 10)***

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 (New Section 4)*

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 (New Section 5)*

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 (Section 6)***

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, continues.

***Proof of Veteran Status (Section 8)***

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.

## 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.

## WILDLIFE AND PARKS

### Requirements for Certain Hunting, Fishing, and Furharvesting Licenses; SB 451

**SB 451** removes a requirement for which a Kansas resident must 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.

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