Kansas Legislative Research Department March 31, 2023

PRELIMINARY SUMMARY OF LEGISLATION
2023 KANSAS LEGISLATURE

KLRD

Providing objective research and fiscal analysis for the Kansas Legislature

This publication contains summaries of selected bills enacted by the Legislature as of the end of the legislative day on March 29, 2023. Bills that have not yet been signed by the Governor are included.

A supplement containing summaries of major bills that were enacted after that date will be distributed during the week of April 10, 2023. An additional supplement will be mailed after the wrap-up session in May.

Highlights, a summary of major legislation, will be prepared after the Legislature adjourns and will be mailed to legislators as soon as possible. *The Summary of Legislation*, which accounts for all bills enacted by the 2023 Legislature, will be distributed at a later date.

These documents are available on the Kansas Legislative Research Department's website: kslegresearch.org.

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AGRICULTURE AND NATURAL RESOURCES

Lesser Prairie Chicken Designation as Threatened Species; SCR 1602

SCR 1602 states the Kansas Legislature disapproves of the designation of the lesser prairie chicken as a threatened species in Kansas by the U.S. Fish and Wildlife Service (USFWS).

The concurrent resolution also states the Kansas Legislature supports the passage in Congress of Senate Joint Resolution 70 and House Joint Resolution 105 that would return control to the farmers, ranchers, and energy producers of Kansas.

[*Note:* Senate Joint Resolution 70 is co-sponsored by U.S. Senators Marshall and Moran; House Joint Resolution 105 is co-sponsored by U.S. Representatives Estes, LaTurner, and Mann. The resolutions would nullify a November 2022 final rule of the USFWS regarding the status of the lesser prairie chicken.]

CHILDREN AND YOUTH

Notice of Qualified Residential Treatment Facility Placement; HB 2240

HB 2240 amends the Revised Kansas Code for Care of Children to clarify and require the clerk of the district court to provide various parties with written notice when a child is placed in a qualified residential treatment program (QRTP), after receipt of such written notice from the Secretary for Children and Families (Secretary).

Current law requires the Secretary to provide written notice to the court when a child is placed in a QRTP. Written notice must also be given to specified parties, but no entity is designated in law to provide notice of such placement. The specified entities who must be notified are the petitioner; the attorney for the parents, if any; each parent at the last known address; the child, if 12 years of age or older; the child's guardian *ad litem*; any other party or interested party; and the child's court-appointed special advocate.

COURTS

Extension of Statutory Speedy Trial Suspension; Sub. for HB 2121

Sub. for HB 2121 amends law governing statutory speedy trial in the Kansas Code of Criminal Procedure.

The bill extends the suspension of statutory speedy trial rights for defendants in all criminal cases until March 1, 2024. [*Note:* Current law suspends statutory speedy trial rights until May 1, 2023.]

The bill specifies that time between March 19, 2020, and March 1, 2024, may not be assessed against the State for any reason. The bill also provides that any person arraigned before March 1, 2024, is deemed to have been arraigned on that date for the application of statutory speed trial.

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

EDUCATION

Virtual State Assessments for Virtual School Students; HB 2080

HB 2080 enacts law supplemental to the Virtual School Act to allow any student enrolled full-time in a Kansas virtual school to take statewide assessments, required by state law, in a virtual setting.

The bill requires the administration of any virtual statewide assessment to meet the following conditions:

- The assessment must be administered to the student at an assigned date and time;
- The assessment must be administered during a synchronous session that is started and managed by an employee of the virtual school;
- The assessment administered in the virtual setting must be the same assessment administered to students enrolled in a virtual school but taking the assessment in an in-person setting;
- The student must be monitored by the assessment proctor via a camera for the length of the assessment;
- If the assessment's platform does not allow for integrated camera proctoring, the bill would require the student to use two devices during the assessment;
- The device on which the student will be taking the test must be equipped with browser lockdown software which is in operation for the length of the assessment;
- A proctor cannot monitor more than ten students during the administration of the assessment;
- The student cannot exit the assessment platform until instructed to by the proctor; and
- The completed assessment must be verified by the assessment administrator.

The bill requires the State Department of Education to implement the provisions of the bill using the Department's funds for the administration of all statewide assessments.

Fairness in Women's Sports Act; HB 2238

VETOED

HB 2238 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 entities or any school or private postsecondary educational institution whose

students or teams compete against a public educational entity to be expressly designated based on biological sex.

Definitions

The bill establishes definitions for six terms, including:

- "Biological sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological or chosen, or subjective experience of gender;

- "Public educational entity" means any public school or postsecondary educational institution;
  - The bill defines a "public school" as any elementary or secondary school maintained and operated by a school district; and

- "School" means any nonpublic school offering any of the grades kindergarten through 12.

VETOED

Athletic Team Criteria

The bill requires all interscholastic, intercollegiate, intramural, and club athletic teams that are sponsored by public educational entities or any school or private postsecondary institutions whose students 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 further specifies that 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 entities that maintain separate teams for students of the female sex:

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

Resolving Violations

VETOED

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 entity or athletic association or organization for reporting a violation of the Act; or
- Any public educational entity 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.

Affiliation of Northwest Kansas Technical College and North Central Kansas Technical College with Fort Hays State University; HB 2290

HB 2290 authorizes the affiliation of Northwest Kansas Technical College and North Central Kansas Technical College with Fort Hays State University (FHSU).

Affiliated Institutions

The affiliated institutions will be designated as FHSU-Northwest Kansas Technical College and FHSU-North Central Kansas Technical College and operate as technical colleges within FHSU. The powers and duties of the governing boards for these technical colleges are transferred to FHSU, subject to the rules and regulations and supervision of the Kansas Board of Regents (KBOR), and the boards will become industry or regional advisory boards appointed by the President of FHSU.

The bill provides that the affiliated institutions will continue as technical colleges eligible for funding in the same manner as other technical colleges and offer programs approved by FHSU, including credential and degree programs that technical colleges are authorized to award.

Industry and Regional Advisory Boards

The new industry or regional advisory boards are required to:

- Review programs at the affiliated institution with FHSU leadership to ensure alignment with industry and community workforce needs;
- Provide input relating to changes in each advisory board member's industry sector or region that affect academic programs;
- Perform any operational responsibilities or duties specified in the formal affiliation agreement; and
- Perform any other responsibilities as requested by the President of FHSU.

Admissions

The bill provides that admission requirements for each respective institution will not be altered, and FHSU will not admit degree-seeking, first-time freshmen or transfer students to university programs who do not meet the applicable qualified admission standards.

Formal Affiliation Agreement

The bill requires a formal affiliation agreement between the affiliated institutions and FHSU to address the transfer of faculty, employees, and students and, subject to authorization by KBOR, all affiliated institution personnel would become FHSU personnel, with their employment deemed uninterrupted.

The affiliation is effective after approval of the formal agreement by the Higher Learning Commission of the North Central Association of Colleges and Schools. The bill provides that, should only one technical college choose to participate in the affiliation agreement with FHSU, the provisions of the bill will be effective for the remaining institutions.

Legal Proceedings and Contracts

The bill states that no legal proceeding, including criminal actions, will be eliminated by reason of the affiliation, and any legal proceeding can be allowed to be maintained by the affiliated institutions.

The bill also states the affiliation will not affect any contract, agreement, or assurance in effect on the effective date of the bill (July 1, 2023).

Conforming and Technical Amendments

The bill makes other conforming and technical amendments to law regarding the technical colleges affiliated designation.

ELECTIONS AND ETHICS

Campaign Finance Act Reform; House Sub. for SB 208

House Sub. for SB 208 amends provisions in the Campaign Finance Act (Act) on topics including procedures of the Kansas Governmental Ethics Commission (Commission).

The bill will take effect upon publication in the *Kansas Register*.

Governmental Ethics Commission

The bill applies the provisions of the Kansas Administrative Procedure Act (KAPA), the Kansas Code of Civil Procedure, and the Kansas Judicial Review Act (KJRA) to actions by the Commission or Commission staff. This includes, but is not limited to, investigative and enforcement actions of the Commission and applications to the Commission. The bill applies provisions of the Kansas Public Speech Protection Act to all actions filed by the Commission in district court pursuant to this act.

The bill establishes the deadline for bringing any action before the Commission at five years after the first act giving rise to the cause of action or complaint.

The bill requires the Commission to provide through rules and regulations the standards by which any member of the Commission, the Executive Director, or other person employed or engaged by the Commission is to recuse themselves from any matter before the Commission for a reason affecting the ability of the Commission to neutrally and fairly enforce the Act.

Commission Hearings, Procedures, and Findings

Respondent Rights

The bill clarifies no action by the Commission shall require a respondent to waive any civil or legal rights to judicial recourse in any manner.

Hearing Procedures

The bill requires all hearings conducted under the Act to be conducted in accordance with the provisions of KAPA and the Kansas Code of Civil Procedure. The bill authorizes the respondent to request any hearing and pre-hearing procedure under this act to be removed for a hearing before a presiding officer from the Office of Administrative Hearings and conducted as prescribed by KAPA. The bill prohibits the Commission from conducting another hearing on the matter and requires the Commission to make its final determination based on the record.

Commission Procedures

The bill authorizes the Commission to apply to the Shawnee County District Court for an order to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any documents or records that the Commission deems relevant or material to the investigation. The bill requires all applications for a court order to be

made under the seal of the court. The bill requires a 2/3, rather than 3/4, majority vote to issue a subpoena or subpoena *duces tecum* and removes the requirement that the commissioners must be physically present in order to vote. The bill requires that no subpoena or other process issued by the Commission pursuant to this section shall be served upon any person unless an application has been filed in the district court of Shawnee County pursuant to this section and requires the Commission to provide a copy of written findings of fact and conclusions of law to the persons under investigation (this section pertains to investigation by the Commission, KSA 25-4158 amendments).

The bill states the court shall issue the order requiring appearance after review of the sufficiency of the written findings of fact and conclusions of law provided by the Commission, the Commission record, and the reasonableness and scope of the subpoena. The bill allows a person responding to a subpoena to apply to a court for relief from a subpoena.

The bill requires every subpoena so issued to include notices regarding the rights of the person to whom the subpoena was issued. The bill requires any person ordered to testify or produce documents to be informed that the person has a right to be advised by counsel and may not be required to make any self-incriminating statement. The bill directs the judge to appoint counsel if the person is indigent and requests counsel. The bill authorizes said counsel to be present while the witness is testifying and interpose objections on behalf of the witness, but does not authorize counsel to examine or cross-examine any witness.

The bill also requires the Commission to take reasonable steps to avoid imposing undue burden or expense on a person subject to subpoena and requires the court to enforce this duty against the Commission by imposing appropriate sanctions when required.

The bill prohibits any attorney or staff member representing the complainant before the Commission from engaging in *ex parte* communication with the Commission, as well as advising, representing, or assisting the Commission regarding the same or related matter before the Commission. The bill requires the Commission to obtain separate independent legal counsel when needed to comply with these requirements.

The bill authorizes the Commission to enter into a contract with the Office of Administrative Hearings and provide reimbursement for actual and necessary expenses and compensation for such person serving as a presiding officer, and adds duties of confidentiality for hearings to members of the Commission, the Executive Director, or any person employed or engaged by the Commission.

The bill applies duties of confidentiality of complaints and allegations therein only to members of the Commission, Executive Director, or any person employed or engaged by the Commission. The confidentiality statute on records, complaints, documents, reports filed with or submitted to the Commission, and all transcripts of any investigation, inquiries, or hearings of the Commission applies only to members of the Commission, the Executive Director, or any person employed or engaged by the Commission.

Penalties and Fines

The bill caps the fine the Commission could impose to not exceed an amount triple the applicable fine for a single violation of the matter. If the respondent derived pecuniary gain from the specific violations, the bill authorizes a larger fine but not to exceed double the pecuniary gain derived from the violation. The bill's provisions do not prevent a court from imposing a

separate fine in a criminal proceeding. Further, the bill directs civil fines assessed by the Commission to the State General Fund instead of the Governmental Ethics Commission Fund.

The bill prohibits the Commission from:

- Ordering community service or any other specified performance in lieu of a civil fine as part of a consent decree or final order; and
- Entering into any agreement with any person that legally binds the Commission from enforcing any law against that person in exchange for the person's cooperation with or assistance of the Commission in any matter unless that person has received immunity from criminal prosecution in the matter from a county or district attorney or the Attorney General.

These provisions do not prohibit the Commission from requiring training regarding or compliance with any provision of the Act as part of a consent decree or final order.

Campaign Finance

Definitions

The bill defines "agent" to mean an individual who is a candidate; a chairperson of a candidate, political, or party committee; a treasurer; or any director, officer, employee, paid consultant, or other person authorized in writing to act on behalf of a person previously listed.

Filing Fees and Requirements

The bill creates a new category of registration by a political committee and changes the thresholds for annual registration fees for political committees. A political committee anticipating receiving within a calendar year:

- More than $15,001, a new category, is required to pay a $750 registration fee;
- At least $7,500 and less than $15,001 is required to pay a $500 registration fee;
- At least $2,500 and less than $7,501 is required to pay a $250 registration fee; and
- Less than $2,500 is required to pay a $50 registration fee.

The bill makes technical amendments to continue requiring a political committee that receives more contributions than anticipated, up to $7,501, to pay the difference between the fee owed and the amount of the fee accompanied by current registration.

Campaign Solicitation

The bill states no solicitation from January 1 through *Sine Die* is a violation if it is a general public solicitation and accompanied with a disclaimer that it is not intended for lobbyists, political committees, or persons other than individuals.

Campaign Expenditures and Contributions

The bill expands allowable personal use of moneys received by any candidate or candidate committee to include:

- Expenses, compensation, or gifts provided to any volunteer, staff member, or contractor of the candidate's campaign or provided to any volunteer or staff of the candidate's political office, provided that the total amount provided from all sources does not exceed the total fair market value of services provided;

- Payment of any civil penalty imposed by the Commission pursuant to the Act related to the candidate's campaign and that is incurred by the candidate, candidate committee, treasurer, or other agent of the candidate; and

- Payment of legal fees related to any matter under the Act.

Presidential Electors; HB 2087

HB 2087 amends law regarding the selection of presidential electors, the day presidential electors meet and perform their required duties, and contests to the election of the presidential electors. [*Note:* This will update Kansas statutes to reflect new federal law, the Electoral Count Reform and Presidential Transition Improvement Act, included in the Consolidated Appropriations Act of 2023, P.L. 117-328.] The bill also repeals statutes related to presidential electors and political parties that are no longer in current use.

Selection of Presidential Electors

The bill requires recognized political parties to adopt procedures for the party's selection of presidential electors and select electors in accordance with such procedures. [*Note:* Current state law provides for presidential electors to be nominated in the same manner as candidates for office.]

The bill also provides the procedures for certifying the names of presidential electors to the Secretary of State (Secretary):

- For a political party with a state organization, the names of the presidential electors must be certified to the Secretary by the chairperson of the state political party;

- For a political party that does not have a state organization, the names of the presidential electors must be certified to the Secretary by the chairperson of the national political party; and

- For an independent presidential candidate, the names of the presidential electors must be selected and certified to the Secretary by the candidate.

The bill requires the names of the presidential electors to be certified to the Secretary by September 1 in a presidential election year. The bill requires the Secretary to provide each elector a certificate on or before the first Wednesday in December.

Electoral College Meeting Day

The bill changes the day presidential electors convene at the state capital and perform their duties from the first Monday after the second Wednesday in December after their election to the first Tuesday after the second Wednesday in December after their election.

Contesting the Election of a Presidential Elector

The bill requires any contest to the election of presidential electors to be made in accordance with federal law (3 U.S.C. § 5).

Advanced Recycling; SB 114

SB 114 defines advanced recycling and related terms and provides exceptions to the definition of solid waste management systems and similar terms regarding advanced recycling.

Definitions

The bill defines the term "advanced recycling" as a manufacturing process where already sorted post-use polymers and recovered feedstocks are purchased and then converted into basic raw materials, feedstocks, chemicals, and other products through processes that include, but are not limited to, pyrolysis, gasification, depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis, chemolysis, and other similar technologies.

The bill states "advanced recycling" does not include the incineration of plastics or waste-to-energy processes or products sold as fuel.

The bill defines the following terms:

- "Advanced recycling facility" means a manufacturing facility that:
  - Receives, stores, and converts post-use polymers and recovered feedstocks that are processed using advanced recycling;
  - Is a manufacturing facility subject to applicable Kansas Department of Health and Environment (KDHE) manufacturing regulations; and
  - KDHE could inspect to ensure that post-use polymers are used as a raw material for advanced recycling and are not refuse or solid waste;
- "Mass balance attribution" means a chain of custody accounting methodology with rules defined by a third-party certification system that enables the attribution of the mass of advanced recycling feedstocks to one or more advanced recycling products;
- "Post-use polymer" means a plastic that:
  - Is derived from any industrial, commercial, agricultural, or domestic activities and includes pre-consumer recovered materials and post-consumer materials;
  - Has been sorted from solid waste and other regulated waste but may contain residual amounts of waste such as organic material and incidental contaminants or impurities;
  - Is not mixed with solid waste or hazardous waste on site or during processing at the advanced recycling facility;
  - Is used or intended to be used as a feedstock for the manufacturing of feedstocks, raw materials, or other immediate products or final products using advanced recycling; and

    - Is processed at an advanced recycling facility or held at such facility prior to processing;

- "Recovered feedstock" means one or more of the following materials that has been processed so that it may be used as feedstock in an advanced recycling facility:
    - Post-use polymers; or
    - Materials for which the U.S. Environmental Protection Agency has made a non-waste determination or has otherwise determined are feedstocks and not solid waste;
- "Recycled plastics" means products that are produced:
    - From mechanical recycling of pre-consumer recovered feedstocks or plastics and post-consumer plastics; or
    - From the advanced recycling of pre-consumer recovered feedstocks or plastics and post-consumer plastics through mass balance attribution under a third-party certification system; and
- "Third-party certification system" means an international and multi-national third-party certification system that consists of a set of rules for the implementation of mass balance attribution approaches for advanced recycling of materials. Third-party certification systems include, but are not limited to:
    - International sustainability and carbon certification;
    - Underwriter Laboratories;
    - SCS recycled content;
    - Roundtable on sustainable biomaterials;
    - Ecoloop; and
    - REDcert2.

Exceptions

The bill adds an exception to the definition of solid waste for post-use polymers and recovered feedstocks that are converted at an advanced recycling facility or held at such a facility prior to conversion through an advanced recycling process.

The bill exempts advanced recycling facilities from the definitions of solid waste management system, solid waste processing facility, and waste-to-energy facility.

Water System Approval; Extending the Period for Repayments to the Kansas Water Pollution Control Revolving Fund; SB 120

SB 120 authorizes the Secretary of Health and Environment to adopt certain rules and regulations regarding public water supply systems and increases the amount of time a municipality will have to repay a loan from the Kansas Water Pollution Control Revolving Fund (Fund).

Rules and Regulations

The bill allows the Secretary of Health and Environment to adopt rules and regulations authorizing approval of, as part of a continuing program of annual certification by public water supply systems, the replacement of segments of distribution systems. The program already approves the extension of distribution systems.

Kansas Water Pollution Control Revolving Fund

Current law states the Secretary of Health and Environment may enter into an agreement with a municipality to loan the municipality moneys from the Fund. The agreement provides that repayment of a loan from the Fund must begin within one year after completion of a project, and the loan must be repaid in full no later than 20 years thereafter. The bill extends the repayment period to 30 years for agreements made on and after July 1, 2023.

FEDERAL AND STATE AFFAIRS

Designating the State Land Fossil; SB 3

SB 3 designates *Silvisaurus condrayi*, a one-ton armored ankylosaur that walked across Kansas during the late Cretaceous period, as the official state land fossil. [*Note:* The official state marine fossil, the *Tylosaurus*, and the official state flying fossil, the *Pteranodon*, were designated by 2014 HB 2595.]

Tobacco 21; HB 2269

HB 2269 amends the Kansas Cigarette and Tobacco Products Act (Act) to raise the minimum age to 21 to sell, purchase, or possess cigarettes, electronic cigarettes, or tobacco products.

Licensing

The bill amends a statute concerning licensing to raise the minimum age to receive a license governed by the Act to age 21.

The bill amends a related statute to require the Kansas Department of Revenue Director of Taxation (Director) to notify licensees who are not yet age 21 of the Director's intention to suspend or revoke such person's license due to them being under 21 years of age.

Unlawful Acts and Related Penalties

The bill amends the Act's unlawful act provisions concerning cigarettes, electronic cigarettes, or tobacco products. Specifically, the bill amends references to the minimum age in statutes concerning the following:

- Sale, furnishing, or distribution of cigarettes, electronic cigarettes, or tobacco products;
- Possession or attempt to possess such products;
- The age listed on required notice of the minimum age to be sold such products;
- Distribution of samples within 500 feet of a school when the facility is primarily used by persons under the minimum age;
- Distribution of samples in an area to which persons under the minimum age are allowed access; and
- Use of a self-service display in a facility where the retailer allows persons younger than the minimum age to be present or permitted to enter at any time.

Criminal Penalty

The bill amends provisions setting out criminal penalties for the unlawful acts of selling, giving, furnishing, or buying such cigarettes or tobacco products to reflect the raising of the minimum age from 18 to 21. The bill also makes related amendments to provisions concerning defenses to such offenses.

Civil Penalty

The bill also amends provisions setting out civil penalties for unlawful acts related to selling, giving, furnishing, or buying cigarette or tobacco products for persons under the minimum age to reflect the raising of the minimum age from 18 to 21. The bill makes a related amendment to a provision specifying certain sale-avoidance training shall be a mitigating circumstance in determination of a fine by the Director.

Firearm Safety Education Programs in Public School Districts; HB 2304

HB 2304 creates law related to firearm safety education programs conducted in public school districts.

The bill allows local school boards (local board) to provide firearm safety education programs. The State Board of Education (State Board) is directed to establish curriculum guidelines for a standardized firearm safety education program, which is required to include accident prevention.

The bill provides that specific programs are to be based on the grade level of students, as follows:

- Kindergarten through grade 5 guidelines shall be based on the Eddie Eagle Gunsafe program (Eddie Eagle program) offered by the National Rifle Association (NRA) or any successor program;
- Grades 6 through 8 guidelines shall be based on either the Eddie Eagle program, or any successor program, or the Hunter Education in Our Schools program (Hunter Education), offered by the Kansas Department of Wildlife and Parks, or any successor program; and
- Grades 9 through 12 guidelines shall be based on Hunter Education or any successor program.

The bill provides that if a local board elects to provide firearm safety education, such instruction must be in accordance with the guidelines established by the State Board. Further, if a local board elects to provide firearm safety education courses, such instruction shall be offered to ensure that all students are provided the opportunity to take the course.

FINANCIAL INSTITUTIONS AND INSURANCE

Amending Employer Definitions for Purposes of Insurance Coverage for Autism Spectrum Disorder; SB 24

SB 24 amends the definitions of “small employer” and “large employer” in a statute pertaining to insurance coverage for autism spectrum disorder. The definitions of “small employer” and “large employer” pertain to group health benefit plans and are specified by the number of people employed on business days during the preceding calendar year, with at least one employee on the first day of the benefit plan year.

The bill amends the definition of “small employer” from an average of at least 1 but not more than 100 employees to an average of at least 2 but not more than 50 employees. The bill amends the definition of “large employer” from an average of at least 101 employees to an average of at least 51 employees.

First-time Home Buyer Savings Account Act—Amendments; HB 2197

HB 2197 amends provisions in the First-time Home Buyer Savings Account Act (Act) to clarify the process for the designation and determination of an account holder’s payable on death beneficiary. The bill also enacts law supplemental to the Act to authorize the State Treasurer to market the First-time Home Buyers Savings Account Program (Program) to account holders and financial institutions. The bill also makes technical changes.

[*Note:* This act permits savings accounts to be used to pay or reimburse a designated beneficiary’s eligible expenses for the purchase or construction of a primary residence in the state. The accounts are subject to maximum contribution amounts per tax year and in aggregate.]

Program Marketing

The bill grants non-exclusive authority to the State Treasurer for the purpose of marketing the Program to account holders and financial institutions throughout the state. The State Treasurer will be permitted to include these marketing initiatives in the office’s annual report.

Designated Beneficiaries

The bill also updates the Act to:

- Add a provision stating the naming of a designated beneficiary does not create a survivorship interest in the account for the named designated beneficiary. In the event of the account holder’s death, the bill provides the account balance must be paid to the payable on death beneficiary or, if there is no named payable on death beneficiary, in accordance with provisions of the Kansas Probate Code;

- Permit a financial institution to rely on its account records for the determination of a payable on death beneficiary for a first-time home buyer savings account;

- If the payable on death beneficiary in the institution's account records conflicts with the designated beneficiary on any form required by the Secretary of Revenue, the bill provides the payable on death beneficiary in such financial institution's account records shall control; and

- Update terminology applicable to beneficiaries within the Act from "transfer on death" to "payable on death."

LEGISLATURE

J. Russell (Russ) Jennings Joint Committee on Corrections and Juvenile Justice Oversight; HB 2114

HB 2114 renames the Joint Committee on Corrections and Juvenile Justice Oversight (JCCJJO), amends the charge of the Committee, and makes technical changes.

The bill renames the JCCJJO as the J. Russell (Russ) Jennings Joint Committee on Corrections and Juvenile Justice Oversight (Committee).

The bill also amends the Committee's charge to monitor the implementation of juvenile justice reform and the work of the Juvenile Justice Oversight Committee from monitoring the establishment of the Juvenile Justice Authority and review and study of the programs, activities, and plans of the Juvenile Justice Authority. [*Note:* The Juvenile Justice Authority no longer exists.]

The bill updates references to the Committee in statute, removes language related to the initial organization of the Committee, and updates statutory language to ensure consistency in statutory phrasing.

LOCAL GOVERNMENT

Authorizing County Funds; HB 2082

HB 2082 authorizes counties to create a Code Inspection and Enforcement Fund, a Municipalities Fight Addiction Fund, or both, and to expand the uses for the existing County Equipment Reserve Fund to include purchases of technology and technology services.

Code Inspection and Enforcement Fund

The bill allows the board of county commissioners (board) of any county to establish a Code Inspection and Enforcement Fund for the purposes of financing operations, equipment, and capital needs for the county department charged with code inspection and enforcement. The functions of those departments include, but are not limited to, building, construction, land, water and gas application, inspection, testing, and permitting.

Municipalities Fight Addiction Fund

The bill allows the board to establish a Municipalities Fight Addiction Fund for the purpose of retaining and expending money received from the Attorney General, in accordance with the Kansas Fights Addiction Act. The bill adds these provisions to the Kansas Fights Addiction Act.

County Equipment and Technology Reserve Fund

The bill changes the name of each county's County Equipment Reserve Fund to the County Equipment and Technology Reserve Fund. The purposes for which the County Equipment and Technology Reserve Fund may be used are expanded to include the purchase of supplies and technology expenses, including cloud technology costs.

Washburn Board of Regents District Boundaries; HB 2092

HB 2092 changes the boundaries of member districts for the Washburn University board of regents appointees, from describing them using Topeka's Senate districts to groupings of city council districts:

- District one shall comprise city council districts two, three, and four;
- District two shall comprise city council districts one, five, and six; and
- District three shall comprise city council districts seven, eight, and nine.

Kansas Open Records Act Exceptions Continued; HB 2395

HB 2395 continues in existence the following exceptions to the Kansas Open Records Act (KORA):

- KSA 2-3902, concerning criminal history information under the Industrial Hemp Act;
- KSA 9-512, concerning informal orders under the Kansas Money Transmitter Act;
- KSA 40-4308, concerning examinations of captive insurance companies;
- KSA 40-4350, concerning records relating to captive insurance companies;
- KSA 65-177, concerning records of maternal death investigations;
- KSA 66-2020, concerning petitioner addresses and phone numbers under certain protective orders;
- KSA 74-5611a, concerning the registry of all Kansas police officers or law enforcement officers;
- KSA 75-7240, concerning internal information technology (IT) security assessments;
- KSA 75-7241, concerning IT security; and
- KSA 65-28b08, concerning certified nurse-midwife impairment records.

[*Note*: The exception contained in KSA 65-28b08 concerning certified nurse-midwife impairment records was not reenacted in 2022. KSA 45-229(e) provides that, for any exception that is set to expire but is not reenacted, the exception does not expire on the date specified in statute and directs the Revisor of Statutes to include that exception in the following year's certification.]

Embalmer Educational Requirements—Apprenticeships; HB 2262

HB 2262 amends educational requirements for embalmers, allowing students to complete 6 months of a required 12-month apprenticeship before enrolling in a mortuary science school.

Previously, an applicant for a license to practice embalming would complete a 12-month apprenticeship after graduation from a school of mortuary science. The bill authorizes an applicant for a license to practice embalming to complete the 12-month apprenticeship as either a:

- Full apprenticeship, with all 12 months being served after graduation from a school of mortuary science; or
- Split apprenticeship, with the 12-month period being split into 2 continuous 6-month periods. The bill requires the first 6-month period to be completed within 12 months prior to the individual's enrollment in the school of mortuary science, and the remaining 6 months after graduation.

An applicant completing a split apprenticeship must submit an examination approved by the Board of Mortuary Arts to be eligible for the second six-month period of the apprenticeship. Apprentice embalmers pursuing a split apprenticeship are required to practice under the direct personal supervision of a licensed embalmer for the first six months of their apprenticeship.

Counseling Compact; HB 2288

HB 2288 establishes the Counseling Compact (Compact) to facilitate interstate practice of licensed professional counselors. The bill also amends law to add a licensure fee relating to the privilege to practice under the Compact.

The Compact's uniform provisions are detailed below.

Purpose

The Compact facilitates the interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling under the Compact occurs in the state where the client is located at the time of the counseling services, and the Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

The Compact's objectives include:

- Increasing public access to professional counseling services by providing for the mutual recognition of other member state licenses;
- Enhancing the states' ability to protect the public's health and safety;

- Encouraging the cooperation of member states in regulating multi-state practice for licensed professional counselors;
- Supporting spouses of relocating active duty military personnel;
- Enhancing the exchange of licensure, investigative, and disciplinary information among member states;
- Allowing for the use of telehealth technology to facilitate increased access to professional counseling services;
- Supporting the uniformity of professional counseling licensure requirements throughout the states to promote public safety and public health benefits;
- Investing all member states with the authority to hold a licensed professional counselor accountable for meeting all state practice laws in the state in which the client is located at the time care is rendered through the mutual recognition of member state licenses;
- Eliminating the necessity for licenses in multiple states; and
- Providing opportunities for interstate practice by licensed professional counselors who meet uniform licensure requirements.

Definitions

The Compact defines various terms, including “professional counseling,” which means the assessment, diagnosis, and treatment of behavioral health conditions by a licensed professional counselor.

State Participation in the Compact

In order to participate in the Compact, a state must:

- License and regulate licensed professional counselors;
- Require licensees to pass a nationally recognized exam approved by the Counseling Compact Commission (Commission);
- Require licensees to have a 60 semester-hour or 90 quarter-hour master’s degree in counseling or 60 semester hours or 90 quarter hours of graduate coursework including subject areas as outlined in the bill;
- Require licensees to complete a supervised postgraduate professional experience as defined by the Commission; and

- Have a mechanism in place for receiving and investigating complaints about licensees.

Member states participating in the Compact are required to:

- Participate fully in the Commission's data system, including using the Commission's unique identifier,

- Notify the Commission of any adverse action or the availability of investigative information regarding a licensee;

- Implement or utilize procedures for considering the criminal history records of applicants for an initial privilege to practice, including the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation (FBI) and the agency responsible for retaining that state's criminal records. Member states are required to fully implement a criminal background check requirement, including the confidential use of FBI record search results to make licensure decisions;

- Comply with the rules of the Commission;

- Require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure as well as all other applicable state laws;

- Grant the privilege to practice to licensee holding a valid unencumbered license in another member state in accordance with the terms of the Compact and rules; and

- Provide for the attendance of the state's commissioner at the Commission meetings.

The Compact authorizes states to charge a fee for granting the privilege to practice. Individuals not residing in a member state are still able to apply for a member state's single-state license as provided under the member state's laws, but the single-state license is not recognized as granting a privilege to practice professional counseling in any other member state.

The Compact does not affect the requirements established by a member state for the issuance of a single-state license.

Under the Compact, a license must be issued to a licensed professional counselor by a home state to a resident in that state to be recognized in each member state as authorizing the licensee the privilege to practice in each member state.

Privilege to Practice

A licensee must, in order to exercise the privilege to practice under the Compact's terms:

- Hold a license in the home state;
- Have a valid U.S. Social Security number or national practitioner identifier;
- Be eligible for a privilege to practice in any member state in accordance with the Compact;
- Have not had any encumbrance or restriction against any license or privilege to practice within the previous two years;
- Notify the Commission that the licensee is seeking the privilege to practice within a remote state;
- Pay any applicable fees, including any state fee, for the privilege to practice;
- Meet any continuing competence or education requirements established by the home state;
- Meet any jurisprudence requirements established by the remote state in which the licensee is seeking a privilege to practice; and
- Report to the Commission any adverse action, encumbrance, or restriction on license taken by any non-member state within 30 days from the date of action.

The licensee must comply with the above requirements to maintain privilege to practice. The privilege to practice is valid until the expiration date of the home state license.

Under the Compact, a licensee providing professional counseling in a remote state under the privilege to practice is required to adhere to laws and regulations of the remote state and be subject to that state's regulatory authority. In accordance with due process and the state's laws, the remote state is able to remove a licensee's privilege to practice in the remote state for a specific period of time, impose fines, or take other necessary actions to protect the health and safety of its citizens. The licensee is potentially ineligible for privilege to practice in any member state until the specific time of removal has passed and all fines are paid.

If a licensee's home state license is encumbered, the Compact requires the licensee to lose their privilege to practice in any remote state until the home state license is no longer encumbered and the licensee has not had any encumbrance or restriction within the previous two years.

Once an encumbered license is returned to good standing, the Compact requires licensees to meet the requirements of privilege to practice in order to practice in any remote state.

If a licensee's privilege to practice is removed, the individual loses the privilege to practice under the Compact in all other remote states until the following occur:

- The specific period of time for which the privilege of practice was removed has ended;
- All fines have been paid; and
- The individual has not had any encumbrance or restriction against any license or privilege to practice within the previous two years.

Once these requirements have been met, the licensee must also meet the requirements of privilege to practice to practice in any remote state.

Obtaining a New Home State License Based on a Privilege to Practice

The Compact authorizes a licensed professional counselor to hold a home state license in only one member state at a time. If the licensee changes primary state of residence by moving between two member states, the licensee must file an application for obtaining a new home state license based on a privilege to practice, pay all applicable fees, and notify the current and new home state in accordance with applicable rules adopted by the Commission.

Upon receiving an application for a new home state license, the new home state is required to verify that the licensed professional counselor meets the criteria of privilege to practice via the data system, without need for primary source verification except for an FBI fingerprint-based criminal background check if not previously performed or updated, other criminal background check as required by the new home state, and completion of any requisite jurisprudence requirements of the new home state.

The Compact requires the former home state to convert the former license into a privilege to practice once the new home state has activated the new license. If the licensee cannot meet the criteria of privilege to practice, the new home state may apply its requirements for issuing a new single-state license. The Compact requires the licensed professional counselor to pay all applicable fees to the new home state for a new home state license.

The Compact also provides that for a licensed professional counselor who changes primary state of residence by moving from a member state to a non-member state or from a non-member state to a member state, the state criteria apply for issuance of a single-state license in the new state.

The Compact does not interfere with a licensee's ability to hold a single-state license in multiple states. For the purposes of the Compact, a licensee may hold only one home state license. The Compact does not affect the requirements established by a member state for the issuance of a single-state license.

Active Duty Military Personnel or Their Spouses

The Compact requires active duty military personnel or their spouse to designate a home state where the individual has a current license in good standing. The individual may

retain the home state designation during the period the service member is on active duty. Once a home state is designated, the Compact requires the individual to change their home state through application for licensure in the new state or through the process outlined in the Compact for obtaining a new home state license.

Compact Privilege to Practice Telehealth

The Compact requires member states to recognize the right of a licensed professional counselor, licensed by a home state in accordance with the Compact, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the Compact and rules promulgated by the Commission.

Under the Compact, a licensee providing professional counseling services in a remote state under the privilege to practice is required to adhere to the laws and regulations of the remote state.

Adverse Actions

The Compact provides a remote state the authority to take adverse action against a licensed professional counselor's privilege to practice within that member state and to issue subpoenas for hearings and investigations as enforced by any court of competent jurisdiction and payment of witness-related expenses as set forth in the Compact.

The Compact allows only the home state to take adverse action against a licensed professional counselor's license issued by the home state.

For purposes of taking adverse action, the Compact requires the home state to give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. The home state applies its own state laws to determine appropriate action.

The Compact requires the home state to complete any pending investigations of a licensed professional counselor who changes primary state of residence during the course of the investigations. The home state has the authority to take appropriate action and promptly report the conclusions of the investigation to the administrator of the data system. The administrator of the coordinated licensure information system is required to notify the home state of any adverse actions.

The Compact allows a member state, if permitted by state law, to recover the costs of investigations and dispositions of cases resulting from any adverse action taken from the affected licensed professional counselor. A member state may take adverse action based on the factual findings of the remote state following its own procedures for taking adverse action.

Under the Compact, member states may participate with other member states in joint investigations of licensees. Member states are required to share any investigative, litigation, or compliance materials related to any joint or individual investigation initiated under the Compact.

If adverse action is taken by the home state against the license of a licensee, the licensee's privilege to practice in all other member states is deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose

adverse action against the license of a licensee must include a statement that the licensed professional counselor's privilege to practice is deactivated in all member states while awaiting settlement of the order.

If a member state takes adverse action, it must promptly notify the administrator of the data system, who must promptly notify the home state of any adverse actions by remote states.

Nothing in the Compact overrides a member state's decision that participation in an alternative program may be used in lieu of adverse action.

Establishment of Counseling Compact Commission

The Compact provides for the creation of a joint public agency to be formally identified as the Counseling Compact Commission (Commission). The Commission is composed of delegates from all states that have adopted the Compact. [*Note*: As of March 29, 2023, not including Kansas, at least 20 states have enacted the Counseling Compact.]

Any judicial proceedings by or against the Commission will brought in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. The Compact does not provide for a waiver of sovereign immunity.

Membership, Voting, and Meetings

The Compact requires each member state to have a limit of one delegate selected by the member state's licensing board. The delegate may be either a current member of the licensing board at the time of appointment or an administrator of the licensing board.

Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. The member state licensing board is required to fill any vacancy occurring on the Commission within 60 days.

Each delegate is entitled to one vote with regard to promulgation of rules and creation of bylaws and otherwise may participate in the business and affairs of the Commission. Delegates are required to vote in person or other means as provided in the bylaws, which may include telephone or other means of communication.

The Compact requires the Commission to meet at least once during each calendar year; additional meetings will be held as set forth in the bylaws.

The Compact requires the Commission to establish by rule a term of office and term limits for delegates.

The Compact provides the following powers for the Commission:

- Establishing the fiscal year of the Commission;
- Establishing bylaws;

- Maintaining its financial records in accordance with the bylaws;
- Meeting and taking actions consistent with the provisions of the Compact and bylaws;
- Promulgating rules, which are binding to the extent and in the manner provided in the Compact;
- Bringing and prosecuting legal proceedings or actions in the name of the Commission, provided that the standing of any state licensing board to sue or be sued under applicable law is not affected;
- Purchasing and maintaining insurance and bonds;
- Borrowing, accepting, or contracting for services of personnel, including, but not limited to, employees of a member state;
- Hiring employees, electing or appointing officers, fixing compensation, defining duties, granting individuals appropriate authority to carry out the purposes of the Compact, and establishing the Commission's personnel policies and programs relating to conflict of interest, qualifications of personnel, and other related personnel matters;
- Accepting, receiving, utilizing, and disposing of any and all appropriate donations and grants of money, equipment, supplies, materials, and services;
- Leasing, purchasing, and accepting appropriate gifts or donations of, or otherwise owning, holding, improving, or using any real, personal, or mixed property while avoiding any appearance of impropriety;
- Selling, conveying, mortgaging, pledging, leasing, exchanging, abandoning, or otherwise disposing of any real, personal, or mixed property;
- Establishing a budget and making expenditures;
- Borrowing money;
- Appointing committees, including standing committees composed of members, state regulators, state legislators or their representatives, consumer representatives, and such other interested persons as may be designated in the Compact and its bylaws;
- Providing and receiving information from and cooperating with law enforcement agencies;
- Establishing and electing an Executive Committee; and

- Performing other functions as may be necessary or appropriate to achieve the purposes of the Compact.

The Executive Committee

The Compact provides for the Executive Committee to have the power to act on behalf of the Commission within the terms of the Compact.

The Executive Committee is composed of 11 members, including:

- Seven voting members elected by the Commission from the current membership of the Commission; and

- Up to four ex officio, nonvoting members from four recognized national professional counselor organizations, selected by their respective organizations.

The Compact allows the Commission to remove any member of the Executive Committee as provided in bylaws.

The Executive Committee must meet at least annually.

The Compact specifies the Executive Committee has the following duties and responsibilities:

- Recommending to the entire Commission changes to the rules or bylaws, changes to the Compact legislation, fees paid by Compact member states such as annual dues, and any Commission Compact fee charged to licensees for the privilege to practice;

- Ensuring Compact administration services are appropriately provided, contractual or otherwise;

- Preparing and recommending the budget;

- Maintaining financial records on behalf of the Commission;

- Monitoring Compact compliance of member states and providing compliance reports to the Commission;

- Establishing additional committees as necessary; and

- Other duties as provided in rules or bylaws.

Meetings of the Commission

The Compact requires all meetings to be open to the public, and public notice of meetings is required 30 days in advance of the meeting date with notification provided on the websites of the Commission and member state professional counseling boards.

The Commission or the Executive Committee or other committees of the Commission may meet in a closed, non-public meeting if the discussion includes:

- Non-compliance of a member state with its obligations under the Compact;
- The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;
- Current, threatened, or recently anticipated litigation;
- Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
- Accusing any person of a crime or formally censuring any person;
- Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- Disclosure of information of a personal nature where disclosure constitutes a clearly unwarranted invasion of personal privacy;
- Disclosure of investigative records compiled for law enforcement purposes;
- Disclosure of information related to investigative reports prepared by, on behalf of, or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or
- Matters specifically exempted from disclosure by federal or member state statute.

If a meeting or portion of a meeting is closed, the Compact requires the Commission's legal counsel or designee to certify that the meeting may be closed and reference each relevant exempting provision.

The Compact requires the Commission to keep minutes on all matters discussed in a meeting, providing a full and accurate summary of actions taken, reasons for those actions, and views expressed. All documents considered in connection with an action must be identified in the minutes. Minutes and documents of a closed meeting remain sealed, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

Financing of the Commission

The Compact requires the Commission to pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities. The Commission may accept any and all appropriate revenue sources, donations, or grants of money, equipment, supplies, materials, and services.

The Commission may levy and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be a total amount sufficient to cover its approved annual budget. The aggregate annual assessment amount is allocated based upon a formula determined by the Commission.

The Compact does not allow the Commission to incur obligations of any kind prior to securing adequate funds to cover the cost. The Commission may not pledge the credit of any member state without the authority of the member state.

The Commission is required to keep accurate accounts of all receipts and disbursements. The Compact requires the receipts and disbursements of the Commission to be audited yearly by a certified or licensed public accountant, and the report of the audit is included in the annual report of the Commission.

Qualified Immunity, Defense, and Indemnification

The Compact specifies that members, officers, the executive director, employees, and representatives of the Commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of action within the scope of Commission employment, duties, or responsibilities; such immunity does not apply in instances of intentional, willful, or wanton misconduct.

The Compact directs the Commission to defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability occurring within the scope of Commission employment, as long as such action was not a result of intentional, willful, or wanton misconduct. The Compact does not prohibit a person from retaining their own counsel.

The Compact requires the Commission to indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against the person within the scope of Commission employment, duties, or responsibilities, provided that the act did not result from the intentional, willful, or wanton misconduct of the person.

Data System

The Compact requires the Commission to provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

As permitted by member state laws, member states are required to submit a uniform data set to the data system on all individuals to whom the Compact is applicable as required by the rules of the Commission, including:

- Identifying information;
- Licensure data;
- Adverse actions against a license or privilege to practice;
- Non-confidential information related to alternative program participation;
- Any denial of application for licensure, and the reasons for such denial;
- Current significant investigative information; and
- Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

The Compact provides for investigative information pertaining to a licensee in any member state to only be available to other member states. The Commission is required to promptly notify all member states of any adverse action taken against a licensee or an individual applying for license. Adverse action information pertaining to a licensee in any member state must be available to any other member state.

Member states contributing information to the data system may designate information that could not be shared with the public without the express permission of the contributing state.

Under the Compact, information submitted to the data system that is subsequently expunged by the laws of the member state must be removed from the data system.

Rulemaking

The Compact requires the Commission to promulgate reasonable rules to achieve the purpose of the Compact. In the event the Commission exceeds its rulemaking authority beyond the scope of the purposes of the Compact, those actions by the Commission are invalid.

Rules and amendments set by the Commission become binding as of the date specified in each rule or amendment.

The Compact states if a majority of member state legislatures reject a rule by enactment of a statute or resolution within four years of the date of adoption of the rule, the rejected rule has no further force or effect in any member state.

Rules or amendments to rules must be adopted at a regular or special meeting of the Commission.

The Compact requires the Commission to file a notice of proposed rulemaking at least 30 days in advance of the meeting in which the rule will be considered and voted upon. Notice must be posted on the website of the Commission or other publicly accessible platform and on the website of each member state professional counseling licensing board or other publicly accessible platform or the publication in which each state publishes proposed rules.

The notice of proposed rulemaking must include:

- The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;
- The text of the proposed rule or amendment and the reason for the proposed rule;
- A request for comments on the proposed rule from any interested person; and
- The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

Prior to the adoption of a proposed rule, the Commission must allow persons to submit written data, facts, opinions, and arguments; any submissions would be made available to the public.

The Compact requires the Commission to grant opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by at least 25 persons, a state or federal governmental subdivision or agency, or an association having at least 25 members. If a hearing is held on a proposed rule or amendment, the Commission must publish the place, time, and date of the scheduled public hearing, or information about accessing the meeting if held electronically.

Individuals wishing to be heard at the hearing must notify the executive director of the Commission or other designated member in writing not less than five business days before the scheduled date of the hearing. Each person who wishes to comment at a hearing must be provided with the opportunity to do so orally or in writing. All hearings are recorded, and a copy of the recording must be made available upon request. Rules may be grouped for the convenience for the Commission, and separate hearings for each rule are not required.

Following the scheduled hearing date or by the close of business on the hearing date if the hearing was not held, the Commission must consider all written and oral comments received. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of a proposed rule without a public hearing.

The Compact requires the Commission, with a majority vote of all members, to take final action on a proposed rule and determine the effective date based on the rulemaking record and the full text of the rule.

Emergency Rulemaking

Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice or opportunity for comment or hearing, provided the usual rulemaking procedures provided in the Compact are retroactively applied to the rule as soon as possible, or no later than 90 days after the effective date of the rule. Emergency rules are defined as those adopted immediately in order to:

- Meet an imminent threat to public health, safety, or welfare;
- Prevent a loss of Commission or member state funds;
- Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
- Protect the public health and safety.

Revisions

The Compact authorizes the Commission or an authorized committee of the Commission to direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of revisions must be posted on the website of the Commission.

The Compact states revisions must be subject to challenge by any person for a period of 30 days after posting. Revisions may be challenged only on grounds that the revision results in a direct material change to the rule. Challenges must be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision takes effect without further action. If the revision is challenged, it may not take effect without approval of the Commission.

Oversight, Dispute Resolution, and Enforcement

Oversight

The Compact provides that the executive, legislative, and judicial branches in each member state enforce the Compact, and its provisions and rules have the force of statutory law. The courts are directed to recognize the Compact and its rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the Compact which may affect the powers, responsibilities, or actions of the Commission.

Under the Compact, the Commission is entitled to receive service of process and have standing to intervene in any such proceeding for all purposes. Failure to provide service of process to the Commission renders a judgment or order void as to the Commission, the Compact, and promulgated rules.

Default, Technical Assistance, and Termination

Under the Compact, if the Commission determines that a member state has defaulted in performance of its obligations or responsibilities under the Compact or its rules, the Commission will:

- Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and any other action to be taken by the Commission; and
- Provide remedial training and specific technical assistance regarding the default.

A state that fails to cure a default is subject to termination from the Compact upon affirmative vote of a majority of the member states. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

Termination of membership in the Compact is imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be provided by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states. A terminated state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

The Commission does not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member is awarded all costs of such litigation, including reasonable attorney fees.

Dispute Resolution

Upon request of a member state, the Commission must attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.

The Compact requires the Commission to promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

Enforcement

Under the Compact, the Commission enforces the provisions and rules of the Compact. By majority vote, the Commission may initiate legal action in the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state to enforce compliance with the provisions, rules, and bylaws of the Compact. The relief sought may include both injunctive relief and damages. In the event judicial

enforcement is necessary, the prevailing member is awarded all costs of such litigation, including reasonable attorney fees.

The remedies included in the Compact are the exclusive remedies of the Commission; other remedies available under federal or state law could be pursued.

Date of Implementation of the Counseling Compact Commission and Associated Rules, Withdrawal, and Amendment

The Compact is effective on the date on which the Compact statute is enacted into law in the tenth member state. [*Note*: The Compact was enacted by the tenth member state, Nebraska, on April 19, 2022.] The provisions are limited to the powers granted to the Commission relating to assembly and the promulgation of rules, after which the Commission is required to meet and exercise rulemaking powers necessary for the implementation and administration of the Compact.

Any state joining the Compact subsequent to the Commission's initial adoption of the rules is subject to the rules as they exist on the date in which the Compact becomes law in that state.

Any member state may withdraw from the Compact by repealing the Compact statute. A member state's withdrawal would take effect six months after enactment of the repealing statute.

Withdrawal from the Compact does not affect the continuing requirement of the withdrawing state's professional counseling licensing board to comply with the investigative and adverse action reporting requirements of the Compact prior to the effective date of withdrawal.

Nothing in the Compact may be construed to invalidate or prevent any professional counseling licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of the Compact.

The Compact is amendable by member states; no amendment to the Compact becomes effective and binding upon any member state until enacted into the laws of all member states.

Construction and Severability

The provisions of the Compact are severable if found to be contrary to the constitution of any member state or of the United States. If provisions of the Compact are found to be invalid, the validity of the remainder of the Compact and its applicability are not affected. If the Compact is found to be contrary to the constitution of any member state, the Compact will remain in full force and effect in the remaining member states; portions of the Compact not in conflict with the state's constitution remain in effect in the affected member state.

Binding Effect of Compact and Other Laws

A licensee providing professional counseling services in a remote state under the privilege to practice must adhere to the laws, regulations, and scope of practice in the remote state.

Nothing in the Compact prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

Any laws in a member state in conflict with the Compact are superseded to the extent of the conflict. Any lawful actions of the Commission, including all rules and bylaws properly promulgated by the Commission, are binding upon the member states. All permissible agreements between the Commission and the members states are binding in accordance with their terms.

Home-State License Fee

The bill authorizes the Behavioral Sciences Regulatory Board to set a fee of not more than $25 for a home-state license with privilege to practice under the Compact and specifies the home-state license fee is in addition to other applicable fees.

STATE GOVERNMENT

Ad Astra Plaza; SB 11

SB 11 authorizes the Capitol Preservation Committee to develop and approve the Ad Astra Plaza (Plaza) on capitol area grounds. The Plaza will include a life-size sculpture of the Ad Astra statute that tops the State Capitol Building, bronze plaques, and donor bricks.

The Ad Astra Sculpture Fund (Fund) was initially established in 1995. The bill designates the Fund as a no-limit special revenue fund until June 30, 2023, under the Department of Administration. The bill also amends funding provisions to indicate the Fund may be expended on the Plaza rather than the pedestal and sculpture alone.

The bill authorizes the Secretary of Administration to receive and expend moneys from grants, gifts, contributions, or bequests made for the purpose of creating, constructing, or maintaining the Ad Astra sculpture and Plaza. The bill also specifies no public moneys can be expended for the purpose of creating, constructing, or maintaining the plaza.

1st Kansas (Colored) Voluntary Infantry Regiment Mural; SB 39

SB 39 provides for the development of a mural in the Statehouse honoring the 1st Kansas (Colored) Voluntary Infantry Regiment and establishes a fund for such purpose.

The bill directs the Capitol Preservation Committee to develop and approve a mural in the Statehouse honoring the regiment. The bill establishes a fund in the State Treasury for moneys received for creating and installing the mural. The bill authorizes the Secretary of Administration to receive and expend moneys from any grants, gifts, contributions, or bequests made for the purpose of financing the creation and installation of the mural. No public funds are to be expended for the purposes of creating or installing the mural.

Division of Tourism Statutory References; HB 2332

HB 2332 would update Kansas Department of Wildlife and Parks (KDWP) statutes to reflect Executive Reorganization Order (ERO) No. 48 that became effective on July 1, 2021. ERO No. 48 transferred the Division of Tourism and the Office of the Director of Tourism from KDWP to the Department of Commerce.

UTILITIES

Light-mitigating Technology Systems on Wind Turbines; SB 49

SB 49 requires the installation of a light-mitigating technology system (lighting system) in new and existing wind energy conversion systems (wind turbines) upon approval from the Federal Aviation Administration (FAA). The bill establishes requirements for the vendors of lighting systems and authorizes any county to enter into certain agreements with a developer, owner, or operator (developer) of wind turbines.

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

Lighting System Requirement for New Wind Turbines

The bill requires, on and after July 1, 2023, any developer of new wind turbines to apply to the FAA for the installation of a lighting system that complies with FAA regulations. If approved by the FAA, the developer will be required to install the lighting system on the approved wind turbines within 24 months after approval.

Lighting System Requirement for Existing Wind Turbines

The bill requires, on and after January 1, 2026, any developer of wind turbines that began commercial operations in Kansas without a lighting system to apply to the FAA for installation and operation of such system that complies with FAA regulations within six months after the execution of a new power offtake agreement related to the wind turbines.

The bill requires the developer of the wind turbines, if approved by the FAA, to install the lighting system on approved wind turbines within 24 months of the approval.

Requirements for Vendors of Lighting Systems

The bill requires any vendor selected for installation of a lighting system on wind turbines and approved by the FAA for installation to provide the Kansas Department of Transportation, Aviation Division, notice of the progress of the installation of the lighting system, in a form and manner prescribed by the Aviation Division.

If the installation of the lighting system is delayed beyond the 24-month installation requirement, the vendor will be required to provide notice and an update to the Aviation Division no less than once every three months on the reasons for the delay and the current status of the installation.

The bill authorizes the Aviation Division to establish policies and procedures to establish a uniform schedule for submitting notice.

Costs

The bill places the responsibility for any costs associated with the installation, implementation, operation, and maintenance of a lighting system on the developer of the wind turbine.

Authority for a County to Issue Revenue Bonds

The bill authorizes any county to issue revenue bonds, pursuant to law regarding issuance of revenue bonds by counties for the purpose of paying all or part of the costs of the purchase, acquisition, and equipping of a lighting system, subject to approval by the FAA, for wind turbines that have commenced commercial operations in the state without a lighting system.

Definitions

The bill defines the following terms:

- "Light-mitigating technology system" means aircraft detection lighting or any other comparable system capable of reducing the impact of facility obstruction lighting while maintaining conspicuity sufficient to assist aircraft in identifying and avoiding collision with a wind energy conversion system;
- "Power offtake agreement" means a long-term contract that provides for:
  - The provision of the whole or any part of the available capacity or the sale or other disposal of the whole or any part of the output of a wind energy conversion system; or
  - A contract for differences or financial hedge tied to the output from the wind energy conversion system; and
- "Wind energy conversion system" means an electric generation facility consisting of 5 or more wind turbines that are 50 feet or taller in height and any accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures.

Video Competition Act; SB 144

SB 144 amends the definition of "video service" in the Video Competition Act.

The bill clarifies within the definition of "video service," that for video programming services provided through wireline facilities located at least in part in the public rights of way, the services will be provided by a video services provider through wireline facilities owned, controlled, constructed, or operated by the provider of the video service.

The bill adds two exceptions to the definition, stating "video service" does not include any video programming provided by:

- A provider of direct-to-home satellite services that are transmitted from a satellite directly to a customer's premises without using or accessing any portion of the public right-of-way; or

- A provider of video programming accessed through a service that enables users to access content, information, email, or other services offered over the internet, including streaming content.

Electric Utility Cost Recovery through Transmission Delivery Charges; HB 2225

HB 2225 amends law authorizing a Kansas Corporation Commission (KCC)-regulated utility to recover costs associated with the transmission of electric power through a transmission delivery charge (TDC) and requires public utilities to evaluate the regional rate competitiveness and impact to economic development in rate proceedings.

[*Note:* The bill only applies to electric utility companies that are under KCC jurisdiction.]

Applications for Rate Changes

The bill amends law relating to applications for rate changes to include a new section that requires any general rate proceeding of electric public utilities serving more than 20,000 customers to evaluate and include assessments of the following for any application for a rate change:

- The regional rate competitiveness of the electric public utility's current and proposed rates; and

- The impact of the electric public utility's current and proposed rates upon economic development within the state.

Transmission Delivery Charges

The bill allows a for-profit, investor-owned electric utility serving more than 20,000 customers in the state that elects to recover transmission-related costs through a TDC to include as a component of the TDC the following:

- All transmission-related costs associated with transmission facilities that are constructed as a result of a notification or directive to construct from a regional transmission organization (RTO) or independent system operator (ISO) that is regulated by the Federal Energy Regulatory Commission (FERC) or its successor agency; and

- All fees and costs imposed on the electric utility in connection with the operation of wholesale power markets by a RTO, ISO, or other entity that is regulated by FERC, other federal agency, or any successor federal agency.

[*Note:* Kansas is a member of the Southwest Power Pool (SPP), which is a RTO.]

The bill also allows a for-profit, investor-owned electric utility serving more than 20,000 customers in the state to recover through a TDC the transmission-related costs associated with transmission facilities constructed as a result of such utility's internal or local planning processes absent a notification to construct or similar directive from an RTO or ISO that is regulated by FERC or any successor agency subject to such utility's compliance with the section.

Cost Recovery

The bill requires a utility, in order to recover costs as a component of a TDC and to facilitate KCC and KCC-authorized intervenor review, to make a compliance filing with the KCC prior to the time period provided for the KCC to adjust the return on equity relating to such costs. The annual compliance filing is required to include the following:

- For non-blanket work order transmission projects over $15 million or other amount deemed necessary by the KCC staff in consultation with the filing utility, an itemized projection of transmission spending for the succeeding and second succeeding calendar years;
- For each transmission project:
  - A project identifier or name;
  - Anticipated in-service date;
  - The projected cost;
  - Specified location within the utility's system;
  - Whether the project is classified as a new build, rebuild, upgrade, or any other appropriate classification;
  - Narrative describing the reason for the project and anticipated reliability benefits;
  - Description of the original vintage of the replaced facilities if the project is classified as a rebuild or upgrade; and
  - Load additions or economic development accommodated by the project, if any;
- Proposed date and time, no later than 90 days after the utility filed the compliance filing, for representatives of the public utility to conduct a technical conference for discussing details of the compliance filing with KCC staff, Citizen's Utility Ratepayer Board (CURB), and other KCC-authorized intervenors; and
- Proposed date and time, no later than 120 days after the utility filed the compliance filing, for KCC to hold a public workshop in which representatives of the public utility must present the details associated with the transmission projects that are anticipated in the succeeding calendar year, which allows for questions and comments from the KCC, KCC staff, and other KCC-authorized intervenors.

Return on Equity

The bill requires, beginning January 1, 2024, and before April 1, 2024, for any utility electing to recover the costs described regarding a TDC, the KCC to adjust the return on equity (ROE) used to determine the revenue requirement of such costs from FERC's jurisdictional ROE to the KCC's authorized ROE last used to set the utility's base rates in effect at the time of filing the TDC update.

If a ROE was not explicitly established during the utility's last general rate case, the KCC is required to determine an appropriate ROE from the record of the last general rate case to establish the revenue requirement for such costs.

The bill states the KCC's authorized ROE does not impact any project that was constructed as a result of a notification to construct or similar directive from a RTO or ISO that is regulated by FERC or any successor agency.

In any TDC update filing, a utility electing to recover the costs through a TDC is required to utilize the KCC's authorized ROE that was used to set the utility's base rates in effect at the time of the update filing or that was stipulated and approved by the KCC for use in the TDC if a ROE was not explicitly set during the last general rate case, to determine the utility's TDC update.

Kansas Underground Utility Damage Prevention Act; Notice of Excavation; Virtual Whitelining; HB 2226

HB 2226 amends the Kansas Underground Utility Damage Prevention Act regarding excavation notification and whitelining (*i.e.*, the marking of a site for excavation).

The bill changes several definitions, including updating the definition of whitelining to allow for virtual whitelining with the use of technology and makes several changes to notification and location requirements including, but not limited to, extending the maximum allowable number of days for notice of intent to excavate from 15 to 20 days, and requiring immediate notification of contact or damage to underground facilities.

Definition Changes

The bill changes the definition of "permitted project" by requiring a permit applicant to serve notice to all underground facility operators of an intent to excavate instead of locating such facilities in the area of work.

Further, the bill changes the definition of "tolerance zone" to mean not more than 24 inches outside the dimensions of an underground facility for facilities in which a larger tolerance zone has not been established in rules and regulations by the Kansas Corporation Commission (KCC) or not more than 60 inches outside the dimensions of an underground water or waste water facility.

The bill amends the definition of "whitelining" to include the use of technology developed for the purpose of the identification of routes or boundaries, allowing an excavator to provide a virtual excavation path when applying for a ticket.

Notification and Location Requirements

The bill increases the maximum number of calendar days for a notice to excavate to be served from 15 to 20. The bill also increases the number of calendar days an intent to excavate notification is valid from 15 to 20 days and allows the KCC to adjust, not withstanding the statutory maximum, the extent of time that a notice is valid through the rules and regulations process.

The bill also changes the two-working-day notification requirement for providing tolerance zone locations to a determination made by the KCC in rules and regulations and no longer requires an operator, after notification from an excavator, to re-identify tolerance zones whose physical identifiers have been improperly removed or altered within one day of notification from the notification center.

The bill requires individuals filing a notice of intent to excavate to whiteline the site at the request of the operator in all instances and removes the requirement that a whiteline must be completed prior to facility locations being identified.

Notification of Damage

The bill requires an excavator to immediately notify an underground facility operator and the notification center when contact or damage has been made to an underground facility. The bill also requires the notification center to contact the underground facility operator when such contact or damage occurs.

The bill changes the notification threshold for civil action when there is a failure of an operator to inform the excavator of the tolerance zone of the underground facility from two working days to prior to the excavation start date.

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Kansas Legislative Research Department April 13, 2023

SUPPLEMENT TO PRELIMINARY SUMMARY OF LEGISLATION 2023 KANSAS LEGISLATURE

KLRD

Providing objective research and fiscal analysis for the Kansas Legislature

This updated version of the March 31, 2023 publication contains summaries of selected bills enacted by the Legislature from April 3 to adjournment at the end of the April 6 legislative day. Bills that have not yet been signed by the Governor are included.

The first Preliminary Summary containing summaries of major bills which were enacted through the end of the legislative day, March 29, 2023, was distributed on March 31, 2023. A final supplement will be mailed after the wrap-up session in May.

Highlights, a summary of major legislation in newsletter form, will be prepared and mailed to legislators as soon as possible after the Session. *The Summary of Legislation*, which accounts for all bills enacted by the 2023 Legislature, will be distributed at a later date.

These documents are available on the Kansas Legislative Research Department's website: kslegresearch.org.

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ABORTION

Definition of Abortion; Medication Abortion Reversal Notification; HB 2264

HB 2264 amends the definition of abortion and clarifies certain medical procedures and methods of contraception are not considered an abortion. The bill adopts the amended definition of abortion uniformly for multiple statutes. The bill also amends the Woman's-Right-to-Know Act to add a notification requirement about reversal of abortion options with certain medications.

Definitions

The bill amends the definition of abortion and adopts the definition of abortion uniformly for statutes pertaining to insurance coverage for elective abortions, abortion facility licensure, abortion of a pain-capable unborn child, the Kansas Unborn Child Protection from Dismemberment Abortion Act, and general abortion statutes addressing viability, restrictions and prohibitions, and information to be provided.

The bill defines "abortion" in multiple statutes to be the same as in KSA 65-6701, a public health statute, which the bill amends to "the use or prescription of any instrument, medicine, drug, or any other means to terminate the pregnancy of a woman knowing that such termination will, with reasonable likelihood, result in the death of an unborn child."

The bill adds to the definition of abortion that the use or prescription of any instrument, medicine, drug, or any other means to terminate the pregnancy of a woman does not mean an "abortion" when done with the intent to:

- Preserve the life or health of the unborn child;
- Increase the probability of a live birth;
- Remove a dead unborn child who died as a result of natural causes in utero, accidental trauma, or a criminal assault on the pregnant woman or the unborn child; or
- Remove an ectopic pregnancy.

The bill affirmatively states that "abortion" does not include the prescription, dispensing, administration, sale, or use of any method of contraception.

The bill also defines the following terms:

- "Medication abortion" means the use or prescription of any drug for the purpose of inducing an abortion; and
- "Medical emergency" means the same as defined in KSA 65-6701: "A condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate abortion of her pregnancy to avert the death of the woman for which a delay necessary to comply with the

> applicable statutory requirements will create serious risk of substantial or irreversible physical impairment of a major bodily function. No condition shall be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct which would result in her death or substantial and irreversible physical impairment of a major bodily function."

The bill also replaces the definition of "medical emergency" in several statutes with a reference to the definition in KSA 65-6701.

Notification Requirements Regarding Medication Abortion

The bill requires any private office, freestanding surgical outpatient clinic, hospital, or other facility or clinic where medication abortions that use mifepristone are provided to post a conspicuous sign that is clearly visible to patients, printed with lettering that is legible and at least 3/4 of an inch boldfaced type, and contains the following text:

> NOTICE TO PATIENTS HAVING MEDICATION ABORTIONS THAT USE MIFEPRISTONE: Mifepristone, also known as RU-486 or Mifeprex, alone is not always effective in ending a pregnancy. It may be possible to reverse its intended effect if the second pill or tablet has not been taken or administered. If you change your mind and wish to try to continue the pregnancy, you can get immediate help by accessing available resources.

The bill requires the notice to include information about the Kansas Department of Health and Environment (KDHE) website required by continuing law and other relevant telephone and internet resources containing information on where the patient can obtain timely assistance to attempt to reverse the medication abortion.

Facilities

The bill requires private offices or freestanding surgical outpatient clinics where medication abortions that use mifepristone are provided to post the sign in each patient waiting room and patient consultation room used by patients for whom medication abortions are provided.

Hospitals or other facilities where medication abortions that use mifepristone are provided that are not private offices or freestanding surgical outpatient clinics are required to post the sign in each patient admission area used by patients for whom medication abortions that use mifepristone are provided.

Pharmacies where mifepristone is prescribed, dispensed, or administered for the purpose of inducing a medication abortion are required to post the sign in each area inside the premises where customers are provided prescription medications and on the exterior of the premises in the area where customers are provided prescription medications via a drive-through window.

Physician

Except in the case of a medical emergency, the bill prohibits a physician from providing, inducing, or attempting to provide or induce a medication abortion that uses mifepristone without informing the woman, in writing as prescribed in the Woman's-Right-to-Know Act and by telephone or in person, at least 24 hours prior to the medication abortion, of the following:

- It may be possible to reverse the intended effects of a medication abortion that uses mifepristone, if the woman changes her mind, but that time is of the essence; and

- Information on reversing the effects of a medication abortion that uses mifepristone is available on the KDHE website, as required by law, and other relevant telephone and internet resources containing information on where the patient can obtain timely assistance to attempt to reverse the medication abortion.

After a physician dispenses or provides an initial administration of mifepristone to a patient for the purposes of performing a medication abortion, the physician or an agent of the physician must provide a legible, written notice to the patient that includes the same information stated above.

When a medical emergency compels the performance of a medication abortion that uses mifepristone, the physician must inform the woman, prior to the medication abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary to avert the woman's death or a 24-hour delay would create serious risk of substantial and irreversible impairment of a major bodily function, excluding psychological or emotional conditions.

KDHE Website

The bill requires, within 90 days after the effective date of the bill, KDHE to publish comprehensible materials designed to inform women of the possibility of reversing the effects of a medication abortion that uses mifepristone and information on resources available to reverse the effects of a medication abortion that uses mifepristone. The bill requires publication in English and in each language that is the primary language of 2.0 percent or more of the state's population, in print and on the website required by law. The bill also requires the website to include other relevant telephone and internet resources containing information on where the patient can obtain timely assistance to attempt to reverse the medication abortion.

Criminal Penalties

The bill provides that upon a first conviction of a violation of failing to provide notification as outlined in the bill, a person is guilty of a class A person misdemeanor and, upon second or subsequent conviction of such violation, a person is guilty of a severity level 10 person felony.

Civil Penalties

The bill requires KDHE to assess a fine of $10,000 to any private office, freestanding surgical outpatient clinic, hospital, or other clinic or facility that fails to post the sign. Each day the required sign is not posted is a separate violation. KDHE must remit all moneys received from fines to the State Treasurer for deposit to the credit of the State General Fund.

Civil Actions

The bill allows the following individuals to bring a civil action against a physician who provided a medication abortion using mifepristone in violation of the provisions in the bill for actual damages, exemplary and punitive damages, and any other appropriate relief:

- A woman to whom such medication abortion has been provided;
- The father of the unborn child who was subject to such medication abortion; or
- Any grandparent of the unborn child who was subject to such medication abortion, if the woman was not 18 years of age or older at the time the medication abortion was performed or if the woman died as a result of the medication abortion.

The bill requires such civil action be commenced within two years after the later of:

- The date of the discovery of the violation; or
- The conclusion of a related criminal case.

A court is required to award reasonable attorney fees and costs to a prevailing plaintiff or a prevailing defendant upon a finding that the action was frivolous and brought in bad faith.

Anonymity

In any civil or criminal proceeding or action brought under the provisions of bill, the bill requires the court to rule whether the anonymity of any woman to whom a medication abortion has been provided, induced, or attempted to be provided or induced is preserved from public disclosure, if she does not give her consent to such disclosure.

The bill requires the court, upon motion of a party or on its own accord, to make such a ruling and, upon determining the woman's anonymity should be preserved, to issue orders to the parties, witnesses, and counsel and to direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the woman's identity from public disclosure. The bill requires each such order to be accompanied by specific written findings explaining why the anonymity of the woman should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less restrictive alternative exists. In the absence of written consent of the woman to whom a medication abortion has been provided, induced, or attempted to be provided or induced, any person, other than a public official, who brings an action under

this section is required to do so under a pseudonym. The bill states these provisions are not to be construed to conceal the identity of the plaintiff or witnesses from the defendant.

Severability Clause

The bill declares its provisions to be severable, to provide that if any provision of the bill, or any application of it to any person or circumstance, is held to be invalid by court order, the invalidity does not affect the remainder of the provisions and any application thereof.

Woman's-Right-to-Know Act

The bill's provisions are included in the Woman's-Right-to-Know Act.

Born-alive Infants Protection Act; HB 2313

HB 2313 enacts the Born-alive Infants Protection Act (Act).

Definitions

The bill defines the following terms:

- "Abortion" means the same as defined in KSA 65-6701 [*Note:* This definition is amended by 2023 HB 2264, which was passed by the Legislature on April 6, 2023.];

- "Born alive" means the complete expulsion or extraction of a human being from its mother, at any stage of development, who, after such expulsion or extraction, breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion;

- "Healthcare provider" means a physician, licensed physician assistant, licensed advanced practice registered nurse, or person licensed, registered, certified, or otherwise authorized to practice by the Behavioral Sciences Regulatory Board; and

- "Medical care facility" means a hospital, ambulatory surgical center, or recuperation center, except that "medical care facility" does not include a hospice that is certified to participate in the Medicare program and that provides services only to hospice patients.

The bill also specifies that the definitions of terms "child," "human being," or "person" include each member of the species *Homo sapiens* who is born alive.

Requirements for Health Care Providers

In the event an abortion or attempted abortion results in a child being born alive, the bill requires any health care provider present at the time the child is born alive to:

- Exercise the same degree of professional skill, care, and diligence, to preserve the life and health of the child as a reasonably diligent and conscientious health care provider would render to any other child born alive at the same gestational age; and

- Ensure that the child who is born alive is immediately transported to a hospital.

The bill requires any health care provider or any employee of a medical care facility who has knowledge of a failure to comply with the reporting requirements to immediately report such failure to an appropriate law enforcement agency.

Penalties

The bill provides for any person who knowingly or recklessly violates the requirements for care and reporting to be guilty of a severity level 10 nonperson felony.

Any person who intentionally performs or attempts to perform an overt act that kills a child who is born alive during an abortion or attempted abortion is guilty of a severity level 1 person felony.

The provisions of this section do not apply to the woman upon whom the abortion is performed or attempted.

Civil Action

A civil action with appropriate relief for any violation of the requirements for care and reporting could only be filed by the woman upon whom the abortion or attempted abortion was performed; the father of the child born alive; and, if the woman is not at least 18 years of age at the time the abortion or attempted abortion is performed, the parents or custodial guardian of the woman.

The bill bars any person who is not the woman upon whom the abortion or attempted abortion was performed from bringing any action if the pregnancy resulted from such person's criminal conduct.

The bill provides for the prevailing party to be awarded reasonable attorney fees, except when the prevailing party is the defendant. If the defendant prevails, the bill directs the court to to find that the plaintiff's action was frivolous and brought in bad faith before the court, and the court could award attorney fees to such defendant.

Anonymity and Requirements to Prevent Public Disclosure

In any civil or criminal action brought pursuant to sections regarding penalties or civil action, upon a motion by either party or on the court's own accord, the bill directs the court to determine whether the anonymity of such woman should be preserved.

If the court determines the woman's anonymity should be preserved, the bill directs the court to issue appropriate orders to the parties, witnesses, and counsel and direct that court records of the proceedings be sealed and all individuals who are not a party to the action, witnesses, or counsel be excluded from the courtroom or hearing room to the extent necessary to safeguard the woman's identity from public disclosure. Each order must be accompanied by specific written findings explaining:

- Why the anonymity of the woman should be preserved from public disclosure;
- Why the order is essential to that end;
- How the order is narrowly tailored to serve that interest; and
- Why no reasonable less restrictive alternative exists.

This section should not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

Annual Report

Each medical care facility in which an infant is born alive subsequent to an abortion or attempted abortion performed on the mother of the infant must submit an annual report to the Secretary of Health and Environment (Secretary).

The bill requires the report to include these specific items:

- The number of infants born alive subsequent to an abortion or attempted abortion;
- The approximate gestational age of the infant who was born alive expressed in one of the following increments:
  - Less than 9 weeks;
  - 9 to 10 weeks;
  - 11 to 12 weeks;
  - 13 to 15 weeks;
  - 16 to 20 weeks;
  - 21 to 24 weeks;
  - 25 to 30 weeks;
  - 31 to 36 weeks; or
  - 37 weeks to term;

- Any medical actions taken to preserve the life of the infant who was born alive;
- The outcome for such infants, including survival, death, and location of death, such as a clinic, hospital, or ambulance, if known; and
- The medical conditions of infants who were born alive, including conditions developed prior to and after the attempted abortion.

The bill authorizes the Secretary to impose a civil fine in any amount not to exceed $500 on any medical care facility that fails to submit the required report within 30 days after the date such report is due to be submitted to the Secretary.

The bill authorizes the Secretary to impose an additional civil fine in an amount not to exceed $500 for each additional 30-day period that such medical care facility fails to submit the required report. If a medical care facility fails to submit a required report for more than one year following the due date, or submits an incomplete report during such time period and fails to correct the deficiencies in such report, the Secretary may bring a civil action for an injunction to compel such medical care facility to submit the required report.

Severability

The bill declares the provisions, words, phrases, and clauses of the bill to be severable, and provide that if any provision, word, phrase, or clause of the bill or the application of the bill to any person or circumstance is held invalid, the unaffected provisions, words, phrases, clauses, or applications remain effective.

Reporting and Sunset on Disclosure Exclusion

The bill amends a statute regarding reporting of the number of pregnancies lawfully terminated to the Secretary to add information required to be reported under the Act and specify the report may not include the names of persons upon whom an attempted abortion was performed.

The bill also adds a sunset date of July 1, 2028, for the subsection providing for the confidentiality of information obtained by the Secretary for these purposes and prohibiting disclosure in a manner that would reveal the identity of physicians or county or other area of the state reporting to the Secretary. The Legislature may review and reenact such provisions before July 1, 2028.

AGRICULTURE AND NATURAL RESOURCES

Hunting and Fishing License for Disabled Veterans; Lehigh Portland State Park; HB 2039

HB 2039 requires the Secretary of Wildlife and Parks (Secretary), or the Secretary's designee, to issue a free permanent hunting and fishing license to any person residing in the state who provides proof to the Secretary that such person is a disabled veteran. The bill defines "disabled veteran" for this purpose to mean a person who has separated from the armed services under honorable conditions and has a service-connected disability of at least 30 percent.

The bill also designates the Lehigh Portland Trails in Allen County as Lehigh Portland State Park.

Cotton Bale Transport; HB 2160

HB 2160 amends secured load requirements for trucks, trailers, and semitrailers hauling cotton bales under certain conditions. The bill clarifies the cotton bales could be transported by the cotton producer intrastate from the place of production or storage to a market, place of storage, or place of use if:

- The cotton bales are fully loaded from front to back in a single layer, and
- The truck, trailer, or semitrailer is equipped with cradles plus stakes, sideboards, or side posts that are not less than 12 inches high.

ALCOHOL

Gallonage Taxes; Samples; Sunday Sales; Common Consumption Areas; Raffles; Dogs at Licensed Premises; HB 2059

HB 2059 amends various provisions of the Kansas Liquor Control Act (KLCA), Kansas Cereal Malt Beverage (CMB) Act, and Club and Drinking Establishment Act (CDEA) concerning remittance of gallonage taxes, samples, Sunday sales, the food sales requirement, and common consumption areas. The bill also permits food establishments to allow dogs in outside areas on the premises and provide an exception to the Kansas Food Code for microbreweries to allow dogs in inside areas, if certain conditions are met.

Remittance of Gallonage Taxes

The bill amends provisions of the KLCA to require a holder of a special order shipping license to submit gallonage taxes to the Secretary of Revenue monthly rather than quarterly.

Product Samples

The bill amends the KLCA provisions on the licensing of spirits, wine, and CMB distributors to increase the sizes of samples of products provided to retailers and to club and drinking establishment licensees.

Spirits

The bill allows a sample of up to three liters of distilled spirits to be provided to club and drinking establishment licensees and employees of the establishment. Continuing law allows samples to be provided to distributors, retailers, and their employees.

Wine

The bill allows a sample of up to three liters of any brand of wine to be provided to a club and drinking establishment licensee, distributor, retailer, and their employees.

Beer

The bill allows a sample of up to three gallons of any brand of beer or CMB to be provided to a club and drinking establishment licensee, distributor, retailer, and their employees.

Sample Products

The bill requires a sample to be of a product the licensee has not purchased from the distributor within the previous 12 months.

Sunday Sales—Food Sales Requirement

The bill amends the CMB Act's provisions regarding on-premises sales of CMB on Sunday to remove the 30 percent food sales requirement for Sunday sales. In continuing law, Sunday sales must have been authorized by the county or city where the licensee is located. [*Note:* There is no food sales requirement for other days of the week.]

Common Consumption Areas

The bill amends the CDEA provisions related to common consumption areas to remove the requirement that a city or county require the portions of common consumption areas on public streets or roadways to be blocked from motorized traffic during events.

The bill also requires each common consumption area to be marked by signs that are conspicuously posted, identifying the boundaries of such area and in a size and manner that provides notice to persons entering or leaving the area.

Charitable Raffles

The bill amends KLCA provisions regarding prohibited acts to allow liquor or CMB to be a prize of a charitable raffle conducted in accordance with the Kansas Charitable Gaming Act, provided such prize shall not be awarded to a person under 21 years of age.

Dogs at Food Establishments and Microbreweries

The bill permits food establishments to allow dogs in outside areas on the premises if certain conditions are met and provides a specific exception from the Kansas Food Code for microbreweries to allow dogs in inside areas upon meeting an additional condition.

[*Note:* Under current law, a food establishment may apply for a variance to be allowed to permit dogs in outside areas.]

Dogs at Food Establishments

The bill allows a food establishment to permit dogs in outside areas on its premises if the following conditions are met:

- The establishment has prepared a written plan detailing the processes and procedures to prevent food contamination from dogs on the premises and posted the plan next to the food establishment license inside the premises of the establishment;
- Employees of the establishment are trained on the plan, and the plan is made available to the Kansas Department of Agriculture upon request;
- Dogs are under handler control, well behaved, and respond to their handler's command;

- Dogs belonging to guests of the microbrewery are leashed at all times;
- Dogs are not permitted on dining surfaces, including tables, bars, or counter tops;
- Dogs are not fed or watered from any food establishment equipment, including, but not limited to, plates, bowls, and utensils, except for single-service items that are disposed of immediately following use;
- An area outside the food establishment is designated for dog urination and defecation;
- Employees are required to wash their hands after contact of any kind with a dog prior to handling any food, drink, or utensil; food or drink production, preparation or serving equipment; or the preparation or use of surfaces that may come into contact with food or drink;
- Guests are advised to wash their hands after any contact with a dog; and
- The establishment has developed and follows a process for immediately sanitizing equipment or surfaces used for the production, preparation, serving, or consumption of food or drink if a dog has contact with the equipment or surfaces, including instructions for disposing of contaminated food or drink.

Dogs at Microbreweries

In addition to the provisions that permit dogs in outside areas of all food establishments, the bill permits food establishments that are microbreweries to allow dogs in inside areas, but dogs will not be permitted in food or drink preparation areas, including, but not limited to, kitchens and behind bars.

Effective Date

The provisions of the bill relating to charitable raffles and common consumption areas take effect on July 1, 2023. The provisions of the bill relating to gallonage taxes, product samples, Sunday sales, and dogs in food establishments and microbreweries take effect upon publication in the *Kansas Register*.

Kansas General Corporation Code; House Sub. for SB 244

House Sub. for SB 244 creates a new section of law and substantially updates various articles of the Kansas General Corporation Code (Code).

The bill also amends various provisions concerning Secretary of State (SOS) business filings, reports, and fees in the Code and the Kansas Revised Limited Liability Company Act (RLLCA); Business Entity Transactions Act (BETA); the Business Entity Standard Treatment Act (BEST Act); Kansas Revised Uniform Limited Partnership Act (RULPA); and the Kansas Uniform Partnership Act (KUPA).

The bill repeals several statutes:

- On and after January 1, 2024, KSA 17-72a03, concerning public benefit corporation amendments and mergers;
- KSA 17-7511, concerning the inspection of a corporation's income tax return to verify a business entity information report to the SOS;
- KSA 17-7514, KSA 56-1a610, and KSA 56a-1204, concerning applications for extension of time for filing income tax returns submitted to the SOS; and
- KSA 56-1a608 and KSA 56a-1203 concerning annual reports and related fees. [*Note: C*ontinuing law requires such reports and fees be collected biennially.]

[*Note*: The bill also repeals the version of KSA 17-6712 as amended by Section 36, concerning appraisal rights in mergers and consolidations, on and after January 1, 2024. The new section will retain most of the bill's amendments, as further explained below.]

Additionally, the bill amends two sections of law concerning taxation to remove cross-references to a statute that is repealed by the bill.

Electronic Signatures and Electronic Transmissions (New Section 1)

The bill adds a section to law governing the formation of corporations in the Code. This new section provides that any act or transaction governed by the Code, articles of incorporation, or bylaws could be provided for in a "document," which is defined by the bill and deemed the equivalent of an electronic transmission.

The bill also specifies that whenever a signature is required or permitted under the Code, it could be a manual, facsimile, conformed, or "electronic signature," which is defined by the bill. The bill also outlines when an electronic transmission is deemed delivered to a person. In addition, the bill allows persons to conduct transactions in accordance with the Uniform Electronic Transactions Act as long as the requirements of this section are satisfied.

The bill specifies the various types of transactions to which the section shall not apply, and other related limitations of the section's provisions.

The bill states that the provisions of the Code control to the fullest extent permitted under the federal Electronic Signatures in Global and National Commerce Act (E-Sign Act) in the event such Code provisions are deemed to modify, limit, or supersede that Act.

Other Code Amendments (Sections 2-50)

Throughout the Code, the bill amends law to authorize certain actions of corporations in accordance with the new section concerning electronic signatures and electronic transmissions described above, unless otherwise restricted. Additionally, the bill provides express authority for corporations to use networks of electronic databases, including blockchain and distributed ledgers, for certain electronic transmissions and records.

The bill makes additional substantive changes to law governing various aspects of corporations, as follows.

Formation of Corporations (Sections 6-11)

The bill amends law governing the formation of corporations in the Code to:

- Specify an amendment, repeal, or elimination of a provision eliminating or limiting the personal liability of a director to the corporation or its stockholders shall not affect an act or omission by a director occurring before such amendment, repeal, or elimination unless the provision allows retroactive application;
- Specify any person, whether or not an incorporator or director, may provide an instruction that consent to action shall be effective at a future time, including a time determined upon a happening of an event not later than 60 days after the instruction is given, and shall be revocable prior to the time the consent becomes effective;
- Expand the types of catastrophes that trigger a corporation’s emergency powers to include an epidemic, a pandemic, or a declaration of a national emergency by the U.S. government. In addition, the bill makes a corporation’s emergency bylaws adoptable by a majority of directors present if a quorum cannot be readily convened, and adds language concerning actions that could be taken to address the emergency condition, including postponing stockholder meetings and changing record and payment dates of dividends declared;
- Clarify a court’s jurisdiction to interpret, apply, or enforce, or determine the validity of, any instrument, document, or agreement when a corporation and one or more stockholders sells or offers to sell stock or when a corporation agrees to sell, lease, or exchange any of its property or assets upon consent of the stockholders; and
- Allow nonstock corporations to ratify defective corporate acts and stock.

Directors and Officers (Sections 12 and 13)

The bill amends law governing directors and officers to:

- Clarify that bylaws may set a board of directors' quorum at a number below or above a majority of directors, but the quorum may not be less than one-third of the total number of directors;
- Specify which officers shall be entitled to mandatory indemnification for any act or omission occurring after June 30, 2023, including the corporation's most highly compensated executive officers as identified in public filings with the U.S. Securities and Exchange Commission (SEC); and
- Authorize a corporation to permissively grant indemnification for other persons who are not officers for acts or omissions occurring after June 30, 2023.

Stocks and Dividends (Sections 14-20)

The bill amends law governing stocks and dividends to:

- Permit stock certificates to be signed by any two authorized officers of the corporation rather than by certain specified officers;
- Provide that shares of a corporation's capital stock would not be entitled to vote nor counted for quorum purposes if such shares belong to any entity that is controlled directly or indirectly by the corporation;
- Clarify the effective dates of amendments to a corporation's articles of incorporation electing not to be governed by statutory provisions limiting business combinations with interested stockholders;
- Permit the ratification of defective corporate acts or stocks when there is no valid outstanding stock for ratifications occurring on or after July 1, 2023;
- Specify the date for determining shareholders to vote to ratify a defective corporate act that involved a vote of the shareholders as the record date of the such vote, not the date of the apparent defective corporate act;
- Clarify that any act that is within a corporation's powers under the Code may be ratified or validated, even if approval had not been obtained as required by the corporation's articles of incorporation or bylaws; and
- Clarify the definition of "failure of authorization" includes the failure to authorize or effect an act or transaction in compliance with the disclosure set forth in any proxy or consent solicitation statement to the extent such failure would render the act or transaction void or voidable.

Meetings, Elections, Voting, and Notices (Sections 21-28)

The bill amends law governing meetings, elections, voting, and notices to:

- Allow certain stockholder notices, including consents, to be provided by U.S. mail, courier, or email, and not require an opt-in for email service;
- Allow the use of electronic databases, including blockchain, distributed ledgers, and stock ledgers, for certain electronic transmissions and recordkeeping;
- Allow certain stockholder records to be maintained on behalf of a corporation, and specify that printed electronic records are valid and admissible evidence in court proceedings; and
- Remove language concerning dated signatures on written consents to no longer require such signatures be dated.

Merger or Consolidation (Sections 29-37)

The bill amends law governing merger or consolidation to:

- Replace references to “Kansas corporations” with “domestic corporations” and replace references to corporations organized in other states with “foreign corporations”;
- Modify provisions regarding voting rights of stockholders and proxies in conformance with provisions regarding electronic signatures and electronic transmissions in New Section 1 of the bill;
- Specify the information to be included in a merger or consolidation agreement, and remove a requirement that in a merger involving a holding company, the resulting company’s organizational documents be the same as the articles of incorporation of the original corporation;
- Specify that for mergers or consolidations between two domestic corporations consummated prior to July 1, 2023, the surviving entity is required to amend its organizational documents to include certain identical information to that of the constituent corporation if it did not already contain the required information;
- Specify for mergers or consolidations between two domestic corporations consummated pursuant to an agreement or board of directors resolution adopted on or after July 1, 2023, no vote by stockholders is required to approve such merger or consolidation unless expressly required by the corporation’s articles of incorporation;
- Allow certain surviving entities to amend their organizational documents to reduce the number of classes and shares of stock or other units and remove certain language authorized by the Act;

- Revise provisions concerning required stockholder votes to approve a merger to not require such vote when the offer is conditioned on a tender of a certain amount of shares of stock of the constituent corporation;

- Allow for certain stock to become excluded or be deemed rollover stock per a written agreement for the purposes of the merger, but only with respect to merger agreements entered into on or after July 1, 2023;

- Require a merger agreement concerning a surviving domestic corporation contain a statement concerning whether amendments or changes in the articles of incorporation are desired. For consolidation involving domestic corporations, the bill shall require the articles of incorporation to be attached to the agreement;

- Require merger or consolidation agreements involving a surviving or resulting foreign corporation to include information required by the laws under which the corporation is organized;

- Require that for nonstock corporation mergers or consolidations involving converted memberships, the cash, property, rights, or securities provided in exchange for such conversion be specified in the agreement;

- Raise the fee for service of process by the SOS to $50 from $40. Continuing law and provisions under the bill require an out-of-state nonstock corporation to designate the SOS as its agent for service of process by in-state corporations;

- Amend provisions related to the merger or consolidation of a nonstock corporation with a stock corporation by specifying what information related to the articles of incorporation must be in such agreement;

- If law requires the SOS to be appointed to receive service of process for the surviving or resulting corporation, and if a certificate of merger or consolidation must be filed, the bill requires such designation to be included in the filed certificate;

- Under an agreement consummated before July 1, 2023, if a corporation's articles of incorporation are amended, appraisal rights shall be available, pursuant to continuing law [*Note*: A new statutory section that will become effective on January 1, 2024, does not contain this specific appraisal provision];

- Under an agreement consummated on or after July 1, 2023, the bill would:
  - Set a threshold for maintaining a claim of appraisal rights in certain mergers to be greater than 1 percent of the outstanding shares, or the value of the consideration exceeds $1 million; and
  - Allow corporations to tender payment of appraisal amounts when litigation begins to avoid accrual of interest; and

- Deny appraisal rights to persons who hold shares in an SEC reporting company pursuant to an intermediate merger under the bill.

Dissolution and Disposition of Corporate Assets (Sections 38 and 39)

The bill amends law governing dissolution and disposition of corporate assets to:

- Clarify the district court has jurisdiction to revoke or forfeit a corporation's articles of incorporation upon motion by the Attorney General; and

- Allow the district court to appoint trustees for winding up the affairs of those corporations whose articles of incorporation have been revoked or forfeited, and limit the court's powers to revoke or forfeit to this purpose (changed from any portion of the Code).

Extension, Renewal, or Reinstatement of Corporate Status (Sections 40-42)

The bill amends law governing extension, renewal, or reinstatement of corporate status to:

- Modify the process by which a corporation could revoke a voluntary dissolution or restore certain articles of incorporation that expired because of an existing time limitation;

- Amend provisions relating to corporate revival for nonrevoked corporations to:
  - Replace references to "renewal," "extension," and "reinstatement" with the term "revival";
  - Set requirements for certificates of revival;
  - Clarify rights and duties of a corporation upon revival; and
  - Add language defining "board of directors" and "bylaws" for purposes of reviving a corporation and establishing the requirements for authorization by the board of directors.

Public Benefit Corporations (Sections 43-45)

The bill amends law governing public benefit corporations to amend provisions regarding the management of public benefit corporations by balancing pecuniary interests of stockholders, best interests of those materially affected by the corporation's conduct, and specific public benefit (balancing requirement) to:

- Add language concerning conflicts of interest for directors of public benefit corporations and make the exculpatory provisions for directors of public benefit corporations the default;

- Add language regarding enforcement provisions of the balancing requirement to eliminate the super-majority stockholder voting requirements associated with article amendments to add or remove public benefit corporation provisions or to merge or consolidate with another entity such that the resulting entity would include or omit public benefit corporation provisions; and

- Remove the special appraisal rights of stockholders of a corporation that converts to or from a public benefit corporation.

Amendments to BETA (Sections 53-58)

The bill amends provisions in BETA governing mergers of business entities to permit certain mergers or combinations with a corporation that can be effected without the vote of the stockholders when the merging entity owns 90 percent or more of the stock of the corporation. The bill allows such mergers to occur between domestic corporations and both domestic and foreign non-corporation business entities.

The bill also states that the provisions of BETA shall control to the fullest extent permitted under the federal Electronic Signatures in Global and National Commerce (E-Sign) Act in the event such provisions modify, limit, or supersede that act.

Amendments to Code, BETA, BEST Act, RULPA and KUPA Concerning SOS Filings, Reports, and Fees (Sections 51-52, 59-72; Other Various Sections Throughout)

The bill amends law concerning business entity information filings, reports, and fees submitted to the SOS in the Code, BETA, BEST Act, RULPA, and KUPA to:

- Clarify business filing entity reports must contain the location of the principal office, including a full postal address, and clarify other references to addresses in these acts to mean postal addresses;

- Standardize the attributes of addresses of individuals and entities in periodic reports;

- Replace a per-page fee with a per-document fee for requested copies of certified and uncertified documents from the SOS;

- Expand the ability of the SOS to accept filings by various electronic means, including electronic uploads;

- Specify when filings must be made on forms prescribed by the SOS;

- Remove language requiring the number of shares of capital stock issued for domestic for-profit corporations be included on business entity filing reports;

- Remove language requiring number of memberships or number of shares of capital stock issued for non-profit corporations be included on business entity filing reports;

- Add certificates of revocation of dissolution and certificates of merger or consolidation to the SOS fee schedule for corporate filings;

- Remove language requiring the SOS to maintain copies of applications for extension tax returns of limited liability companies; and

- Clarify provisions regarding resignation of resident service agents and filing related certificates of resignation.

Self-storage Operators and Towing Service; HB 2042

HB 2042 adds self-storage unit operators (operators) to the list of persons who may direct the towing of a vehicle and permit the operators to have motor vehicles, trailers, and watercraft towed when the occupant of the storage space is in default for a period of 60 days.

The bill requires the operator to provide notice to an occupant prior to towing the property. The occupant can avoid a tow by paying the amount necessary to satisfy the operator's lien at any time before the tow.

The bill exempts operators from liability for damages to motor vehicles, trailers, or watercraft after the towing service takes possession if the towing service has a certificate of public service from the Kansas Corporation Commission. The bill limits tows under the bill to those permitted by a city ordinance or county resolution of the city or county where the storage facility is located.

The bill states the operator's lien on the motor vehicle, trailer, or watercraft is extinguished after the property is towed from the self-storage facility.

Kansas Apprenticeship Act and Engineering Graduate Incentive Grants; HB 2292

HB 2292 creates the Kansas Apprenticeship Act (Act), which establishes a tax credit and grant incentive programs for apprenticeships and creates a matching grant program within the Department of Commerce to provide grants to eligible institutions of higher education based on the number of engineering program graduates of the institution.

Apprenticeship Tax Credit (Kansas Apprenticeship Act)

Tax Years 2023, 2024, and 2025

The bill allows an eligible employer to claim the apprenticeship tax credit for tax years commencing after December 31, 2022, and ending before January 1, 2026, if the eligible employer employs an apprentice:

- Pursuant to a registered apprenticeship agreement;
- In accordance with a registered apprenticeship plan for all or a portion of the probationary period, as defined for that apprenticeship in the registered apprenticeship standards, work process schedule otherwise known as appendix A, or as designated by the Secretary of Commerce (Secretary);
  - [*Note:* The bill defines "Secretary" to mean the Secretary of Commerce or the Secretary's designee, including the Director of the Office of Registered Apprenticeship or any successor, designated by the Secretary to administer the Act.]; and
- At the time such probationary period is completed.

The bill requires the tax credit to be claimed by an eligible employer for the taxable year in which the apprentice completed the probationary period or the taxable year succeeding the calendar year in which the apprentice completed the probationary period while employed by the eligible employer, as determined by the Secretary and set forth in the agreement with the Secretary.

The bill allows subsequent tax credits to be claimed for up to three successive calendar years after the date on which the probationary period of the apprentice was met by any eligible employer who subsequently employs such apprentice in all or a portion of the year. The bill requires the tax credit to be claimed by an eligible employer for the taxable year in which the apprentice was employed or the taxable year succeeding the calendar year in which the apprentice was employed by the eligible employer, as determined by the Secretary and set forth in the agreement with the Secretary.

The Secretary of Revenue, in consultation with the Secretary, is required to establish a scale reflecting the ranges of wages and other expenditures an eligible employer has invested in an apprentice and a corresponding tax credit amount. The amount of the tax credit awarded is to be in accordance with the scale, up to $2,500 for each apprentice employed.

The tax credit may be awarded for up to 20 apprentices employed in each taxable year per eligible employer and is not to be awarded for employment of the same apprentice more than 4 times.

Tax Years After December 31, 2025

For tax years commencing after December 31, 2025, the bill allows an eligible employer to claim the apprenticeship tax credit, if the eligible employer employs an apprentice:

- Pursuant to a registered apprenticeship agreement; and
- In accordance with a registered apprenticeship plan for a continuous period of time constituting at least 25.0 percent of the apprenticeship time period required by the registered apprenticeship program.

The bill requires the tax credit to be taken in the tax year next succeeding the calendar year in which the employment requirement to claim the credit is met.

The eligible employer may claim the tax credit in successive tax years based on up to a cumulative total of four successive calendar years of employment for an individual apprentice.

The amount of the tax credit is up to $2,750 for each employed apprentice, not to exceed 20 such credits in any taxable year per eligible employer. The Secretary may authorize a credit for employment of less than a full calendar year pursuant to rules and regulations adopted by the Secretary.

Career and Technical Education (CTE) Program

In addition to the credit allowed for an apprentice in tax years commencing after December 31, 2025, the bill also allows an eligible employer to claim a tax credit for an apprentice who is enrolled in a secondary or postsecondary CTE program, is under 18 years of age at the time the credit is claimed, has been employed by the eligible employer for at least 90 days, and is participating in:

- An apprenticeship program registered with the Secretary and funded through the Carl D. Perkins Career and Technical Education Act of 2006, as revised by the Strengthening Career and Technical Education for the 21st Century Act;
- An adult basic education and literacy program funded under Title II of the Workforce Innovation and Opportunity Act; or
- A public workforce program funded under Title I and Title III of the Workforce Innovation and Opportunity Act.

An eligible employer is required to claim the credit in the taxable year next succeeding the calendar year in which the requirements to claim the credit are met.

The bill limits the amount of the credit to not exceed $500 and limits the number of credits an eligible employer may claim per tax year to no more than 10 credits.

Limitations

The bill limits the aggregate amount of all tax credits for all eligible employers issued under the Act to $7.5 million each taxable year.

Tax credits are not refundable or transferable and are to be claimed on a pro-rata basis by the owners of eligible employers that are entities taxed under subchapter S or K of the federal Internal Revenue Code, limited liability companies, or professional corporations authorized to do business in the state.

Agreement with the Secretary of Commerce

The bill requires eligible employers to enter into an agreement regarding the employment of apprentices with the Secretary on such terms and conditions as the Secretary may require. The agreement is required to:

- Set forth the amount per credit or amount of cumulative credits an employer may earn based on specified conditions or attainment of specified employment or training goals and any other conditions for such credits;

- If applicable, set forth the relevant provisions of the scale reflecting the ranges of wages and other expenditures an eligible employer has invested in an apprentice and a corresponding tax credit amount, as determined by the Secretary of Revenue in consultation with the Secretary; and

- Require the eligible employer to provide such information as required by the Secretary or Secretary of Revenue for purposes of substantiating eligibility for the tax credit, the development and expansion of apprenticeships in the state and the report required under the Act.

If an agreement is approved by the Secretary, the eligible employer is required to submit such information in the manner and form as prescribed by the Secretary and Secretary of Revenue to demonstrate eligibility for the credit each tax year a credit is claimed. The eligible employer is also required to meet the requirements of any rules and regulations of the Secretary or Secretary of Revenue.

Duties of Secretary of Commerce

The Secretary is required to advise the Secretary of Revenue of the potential tax credits available to the eligible employer. The Secretary is also required to certify eligible employers to the Secretary of Revenue before a tax credit may be awarded.

The Secretary is required to consult with the Secretary of Revenue, Kansas postsecondary technical education authority and educational institutions, technical schools, secondary schools, business or industry associations, and other appropriate entities to coordinate implementation, administration, and development of apprenticeship programs in the state, including through the use of apprenticeship tax credits.

The Secretary is required to provide an annual report before January 31 of each year to the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce to account for the effectiveness of the Act. The report is required to include information regarding:

- The number and type of eligible employers, eligible nonprofit employers, and eligible health care employers;

- The number and type of apprenticeships incentivized;

- The amount of tax credits and grants issued and the amounts issued per industry and per eligible employer, eligible nonprofit employer, and eligible health care employer;

- Results of the program, including information on the employment of individuals following the participation in an apprenticeship program, the extent and nature of coordination and efforts with other entities to develop apprenticeship programs,

and the effect of such efforts on the tax credits and grants on apprenticeship program development; and

- Other information requested by the respective committees.

Rules and Regulations

The bill authorizes the Secretary or the Secretary of Revenue to adopt rules and regulations as necessary to establish standards for participation and eligibility and to implement and administer the Act.

Union Affiliation

The bill stipulates that participation of an employee with an apprenticeship program under the Act and registration with the Secretary does not constitute union affiliation, unless the employee expressly elects to affiliate with a union.

Kansas Nonprofit Apprenticeship Grant Program (Kansas Apprenticeship Act)

The bill also creates the Kansas Nonprofit Apprenticeship Grant Program (Program) and authorizes the Secretary to develop and administer the Program to award grants to eligible nonprofit employers and eligible nonprofit health care employers that employ an apprentice pursuant to a registered apprenticeship agreement and in accordance with a registered apprenticeship plan for the purpose of covering administrative costs of registered apprenticeship programs. The Secretary is required to develop application procedures, forms, and grant award terms, conditions, and criteria and consult with appropriate state agencies, institutions, nonprofit organizations and associations, private health care associations, nonprofit Kansas health care providers, and other appropriate entities in developing the Program.

To be eligible for grants under the Program, an eligible nonprofit employer or eligible nonprofit health care employer is required to enter into an agreement with the Secretary to employ an apprentice for the same period of time as the probationary period, as defined for the apprenticeship in the registered apprenticeship program standards, or a continuous period of time constituting at least 25.0 percent of the apprenticeship time period required by the registered apprenticeship program. The Secretary may authorize employment of an apprentice for less than a full year.

The bill requires grants to be awarded pursuant to an agreement with the eligible nonprofit employer or eligible nonprofit health care employer upon such terms and conditions as the Secretary requires and may include program development or employment or training goals in addition to specified employment requirements with respect to an apprentice.

The bill limits the grant amount to $2,750 per apprenticeship per taxable year, not to exceed 4 successive years, and limits the number of grants to no more than 20 per eligible nonprofit employer or per eligible nonprofit health care employer per taxable year.

Kansas Nonprofit Apprenticeship Grant Program Fund

The bill creates the Kansas Nonprofit Apprenticeship Grant Program Fund (Fund) to be administered by the Secretary. All moneys credited to the Fund are to be used to provide grants for the administration of apprenticeship programs by eligible nonprofit employers and eligible nonprofit health care employers in Kansas.

On July 1, 2023, and each July 1 thereafter, the bill requires, subject to appropriation acts, $2.5 million from the State General Fund (SGF) to be transferred to the Fund. Any unencumbered balance in the Fund at the end of a fiscal year would remain credited to the Fund for use in the succeeding fiscal year and may not exceed $2.5 million. On June 30, 2024, and each June 30 thereafter, the Director of Accounts and Reports is required to transfer the amount, if any, of unencumbered moneys in the fund in excess of $2.5 million to the SGF.

The bill limits the sum of the amount of all tax credits and grants issued pursuant to the Act to not exceed a total amount of $10.0 million in each taxable year.

Kansas Educator Registered Apprenticeship Grant Program (Kansas Apprenticeship Act)

The bill also creates the Kansas Educator Registered Apprenticeship Program (Educator Program) and directs the State Board of Education, Commissioner of Education, and the Secretary to coordinate to develop the Educator Program, obtain necessary approvals under state and federal law, and administer the Educator Program, which will award grants to education apprentices attending applicant schools for the purpose of increasing the number of qualified, credentialed teachers in Kansas by identifying candidates to participate in the Educator Program, secure licensure, and engage in the profession of teaching in Kansas. Grants are to be awarded upon the approval of the Secretary.

The bill requires the State Board of Education, in coordination with the Secretary, to adopt, by March 1, 2024, rules and regulations to implement the Educator Program, including establishing:

- The grant application procedure and forms;
- Terms and conditions for the award of a grant, which are to include requiring partnerships between applicant schools and eligible training instruction providers, requiring the identification of projected candidates in the manner designated by the Secretary, and the use of grant funds for the payment of apprentice tuition, fees, and the cost of books and materials, up to a maximum of $2,750 per year for four years;
- Prioritization of grant applications providing for the apprentice to continue current employment by utilizing flexible learning models; and
- A method to award grands equitably across the state geographically.

The bill requires the Commissioner of Education and the State Board of Education, in coordination with the Secretary, to annually evaluate the Educator Program beginning in 2025

and submit a report of the evaluation to the House and Senate committees dealing with education and commerce by January 31 of each succeeding year.

Kansas Educator Registered Apprenticeship Grant Program Fund

The bill creates the Kansas Educator Registered Apprenticeship Grant Program Fund (Educator Program Fund), to be administered by the Secretary. The bill provides for expenditures from the Educator Program Fund to be made to award grants under the Educator Program. Expenditures from the Educator Program Fund are to be made in accordance with appropriations acts. The bill provides for an annual transfer, beginning July 1, 2023, of $3.0 million SGF to the Educator Program Fund, and any unencumbered balance of the Educator Program Fund at the end of each fiscal year would remain in the Educator Program Fund for use in the succeeding fiscal year, but may not exceed $3.0 million. On June 30, 2024, and each June 30 thereafter, the Director of Accounts and Reports is required to transfer the amount, if any, of unencumbered moneys in the Educator Program Fund in excess of $3.0 million to the SGF.

Kansas Apprenticeship Act Definitions

The bill defines, with respect to the Kansas Apprenticeship Act, the terms “Act,” “apprentice,” “apprenticeship,” “apprenticeship agreement,” “apprenticeship program,” “applicant school,” “candidate,” “education apprentice,” “eligible employer,” “eligible nonprofit employer,” “eligible healthcare employer,” “eligible related training instruction provider,” “intermediary,” “registered apprenticeship agreement,” “registered education apprenticeship program,” “registered apprenticeship program,” “Secretary,” and “sponsor.”

Engineering Higher Education Matching Grants Program

The bill provides for grants to be made by the Secretary to state educational institutions and members of the Kansas Independent College Association as of July 1, 2023, if the institution has its primary locations in Kansas and has an engineering program accredited by the Accreditation Board for Engineering and Technology.

Grants require a dollar-for-dollar match with funds from non-state sources and are to be at least $20,000 per graduate from an accredited engineering program, including computer engineering or computer science, from the immediately preceding academic year to the extent the number of engineering graduates exceeds the institution’s threshold amount. Graduate thresholds are:

- Kansas State University – 586 graduates;
- University of Kansas – 419 graduates;
- Wichita State University – 360 graduates; and
- Private, independent colleges and other state educational institutions with accredited engineering programs – 1 or more graduates.

Grant amounts are to be prorated if the total amount of funds is insufficient for each grant to be $20,000.

The matching grants program expires on July 1, 2033.

Uses of Grant Proceeds

The Secretary is required to consult and coordinate with eligible institutions of higher education, the State Board of Regents, and private industry in planning and developing uses for matching grant funding and is required, on or before January 10, 2024, and annually thereafter, to report to the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce, or any successor committees, on the uses of grant funding and the progress made toward the goals of the bill.

The bill authorizes grant proceeds to be used for:

- Awarding scholarships to undergraduate engineering students;
- Recruiting undergraduate students for engineering programs;
- Expanding the number of potential engineering students through engineering-related activities in secondary schools in Kansas;
- Funding internships for undergraduate engineering students;
- Making necessary facility improvements or equipment purchases to expand engineering program course offerings; and
- Hiring additional faculty or enhancing faculty salaries in the institution's engineering program.

The bill prohibits using grant funds to acquire or construct any facilities.

Engineering Graduate Incentive Fund

The bill creates the Engineering Graduate Incentive Fund (Incentive Fund) within the State Treasury. The Secretary is to administer the Incentive Fund, and expenditures from the Incentive Fund are to provide matching grants.

The bill provides, subject to appropriation acts, for a transfer of $1.5 million to be made from the SGF to the Incentive Fund in FY 2024 and a transfer of twice the amount of funds expended in grants in the prior fiscal year, not to exceed $5.0 million, from the SGF to the Incentive Fund in all years thereafter. The balance of the Incentive Fund following such transfers is limited to $5.0 million, and any transfers to the Incentive Fund are to be reduced accordingly.

Expenditures from the Incentive Fund are to be made in accordance with appropriations acts upon warrants of the Director of Accounts and Reports pursuant to vouchers approved by the Secretary.

Matching Grants Program Definitions

The bill defines, with respect to engineering program matching grants, the terms "eligible institution of higher education," "engineering program" or "accredited engineering program," "qualified eligible institution of higher education," and "Secretary."

CHILDREN AND YOUTH

Kansas Child Mutilation Prevention Act; SB 26

SB 26 creates the Kansas Child Mutilation Prevention Act (Act). The bill allows an individual who had gender reassignment service performed as a child to bring a civil cause of action under the Act against the physician who performed such service. The bill establishes the statute of limitations for such cause of action, the relief that could be sought, and the time frame to which the Act applies. The provisions of the Act do not apply if the child was born with a medically verifiable disorder of sex development, as defined in the bill.

The bill also requires the Kansas State Board of Healing Arts (Board) to revoke the license of a physician who has performed a childhood gender reassignment service.

Definitions

The bill defines the following terms:

- "Childhood gender reassignment service" means performing, or causing to be performed, acts including, but not limited to, any of the following performed on a child under 18 years of age for the purpose of attempting to affirm the child's perception of the child's sex or gender, if that perception is inconsistent with the child's sex:
  - A surgery that sterilizes or is intended to result in sterilization, including, but not limited to, castration, vasectomy, hysterectomy, oophorectomy, orchiectomy and penectomy;
  - A surgery that artificially constructs tissue with the appearance of genitalia, including, but not limited to, metoidioplasty, phalloplasty, and vaginoplasty;
  - A mastectomy;
  - Prescribing, dispensing, administering, or otherwise supplying the following medications:
    - Puberty-blocking medication to delay, hinder, stop, or reverse normal puberty;
    - Supraphysiologic doses of testosterone to females; or
    - Supraphysiologic doses of estrogen to males; or
  - Removing any body part or tissue;
- "Physician" means a person licensed by the Board to practice medicine and surgery;
- "Sex" means the biological state of being female or male based on the individual's sex organs, chromosomes, and endogenous hormone profiles; and

- "Supraphysiologic doses" means a pharmacologic dosage regimen that produces blood concentrations greater than the accepted range for a child's age and sex.

Medically Verifiable Disorder of Sex Development

The Act does not apply if a child was born with a medically verifiable disorder of sex development, including, but not limited to:

- A child with external biological sex characteristics that are irresolvably ambiguous, such as a child born having 46,XX chromosomes with virilization, 46,XY chromosomes with undervirilization, or both ovarian and testicular tissue; or

- When a physician has otherwise diagnosed a disorder of sexual development, determined through genetic or biochemical testing, that the child does not have the normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female of the child's age.

Civil Cause of Action

Statute of Limitations

The bill allows a civil cause of action under the Act to be commenced no more than 3 years after the date the individual attains 18 years of age.

Time Frame for Application of Act

The Act applies to:

- Any action commenced on or after July 1, 2023, including any action that would be barred by the period of limitation applicable prior to such date; and

- Any action commenced prior to July 1, 2023, and pending on such date.

Available Relief

The bill provides that an individual who brings a civil cause of action under the Act could seek actual damages, exemplary or punitive damages, injunctive relief, and other appropriate relief. The bill requires the court to award the prevailing plaintiff the cost of the suit including reasonable attorney fees.

Physician License Revocation

The bill requires the Board to revoke a physician's license upon a finding that the physician had performed a childhood gender reassignment service, as defined by the Act.

Newborn Safety Devices; CARE Program; Representative Gail Finney Memorial Foster Care Bill of Rights; HB 2024

HB 2024 amends the Revised Kansas Code for Care of Children (Code) relating to the Newborn Infant Protection Act (Act) to provide an alternate means to legally surrender an infant pursuant to the Act; creates a program within the Kansas Department of Health and Environment (KDHE) for the training of and payment for Child Abuse Review and Evaluation (CARE) providers who conduct CARE exams; and enacts the Representative Gail Finney Memorial Foster Care Bill of Rights (Bill of Rights) to enumerate and codify in statute the rights of children in need of care in the child welfare system (foster youth) and the rights of foster parents and kinship caregivers.

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

Newborn Infant Protection Act Amendments—Newborn Safety Devices

Impact of Newborn Infant Protection Act on Indian Child Welfare Act of 1978 (ICWA)

The bill states the Act does not abridge the rights or obligations created by ICWA, and adds the Act to the list of statutes that may not apply when an Indian child is involved in such proceedings, thereby invoking ICWA, in the statute governing jurisdiction of child in need of care proceedings.

Surrender to Newborn Safety Device

The bill authorizes a parent or other person having lawful custody of an infant who is not more than 60 days old and who has not suffered great bodily harm as determined by a person licensed to practice medicine or surgery, an advanced practice registered nurse, or licensed physician assistant to surrender physical custody to a newborn safety device, defined by the bill, installed at a police station, sheriff's office, law enforcement center, fire station, city or county health department, hospital, ambulatory surgical center, or recuperation center (authorized facility). [*Note:* Current law provides that an infant may only be physically surrendered to an employee of an authorized facility.]

The bill makes the relinquishing parent who follows the above procedure immune from civil or criminal liability for surrendering an infant meeting the criteria stated above.

The bill requires, after the infant has been surrendered to a newborn safety device, an employee of the authorized facility where the device is located to take physical custody of the infant without a court order. The bill also specifies that, after an employee of the authorized facility notifies a law enforcement agency of a surrender pursuant to the bill, such agency is required to report the surrender to the Secretary for Children and Families (Secretary), in addition to the requirement for the agency to deliver the infant to a facility or person designated by the Secretary in continuing law.

Definitions

The bill defines ”newborn safety device” as a device or container designed to safely accept delivery of an infant and that is:

- Voluntarily installed in an authorized facility that is staffed 24 hours a day by an employee of such facility, or has a dual alarm system that will dispatch first responders when all employees of the facility are unavailable;
- Located on a structural wall in an area that is conspicuous and visible to employees of the authorized facility;
- Equipped with an automatic lock that restricts access to the device from the outside of the authorized facility when an infant is placed inside the device;
- Equipped with a temperature control; and
- Equipped with an alarm system that complies with requirements established elsewhere in the bill and that is triggered by an infant being placed inside the device.

The bill also amends the definitions of “non-relinquishing parent” and “relinquishing parent” to reflect the new provisions added by the bill.

Alarm System Requirements

The bill provides that an authorized facility that installs a newborn safety device must also install a dual alarm system connected to the physical location of the device, which requires weekly testing and twice-daily visual checks to ensure the system is in working order.

Genetic Testing of Non-relinquishing Parent

The bill amends a provision in the Act governing the procedure for a non-relinquishing parent to establish parental rights after the surrender of an infant to specify when a person seeks to establish parental rights, the court must require the person to submit, at such person’s own expense, to a genetic test to verify that person is the biological parent of the child.

Determining Tribal Status of Infant or Parent

The bill requires an employee of an authorized facility to ask the person surrendering an infant pursuant to the Act if the infant or either biological parent is a member of, or eligible for membership in, a federally recognized Indian tribe, and the identity of the tribe. An authorized facility utilizing a newborn safety device is required to provide a means for surrendering persons to provide information pertaining to tribal status. The employee taking custody of the infant after inquiring about tribal status is required to send the information to the Secretary. The Secretary is then required to provide such information to the court with jurisdiction over the infant.

Information to be Made Available to Relinquishing Parent

The bill requires an authorized facility receiving an infant pursuant to the Act to make available, if possible, the following information to the relinquishing parent:

- A notice stating that 60 days after the surrender of the infant to the facility, the Secretary shall commence proceedings for termination of parental rights and placement of the infant for adoption;
- A list of providers that provide counseling services on grief, pregnancy, and adoption or other placement or care regarding an infant;
- The language of this section, the rights of birth parents, including a questionnaire that a birth parent may use to answer questions about medical or background information of the child, including any information pertaining to tribal status; and
- A brochure on postpartum health.

The bill states that the relinquishing parent is not be required to accept the information provided by an authorized facility. The bill states the form and manner of the information under this section is prescribed by the Secretary, who is required to maintain the questionnaire described above on a public website.

Disclosure of Information

The bill requires an employee taking custody of an infant to reveal all personal information received from the relinquishing parent when such parent indicates the infant or parent is a tribal member (or eligible for tribal membership) or there is a reasonable suspicion that the infant has suffered great bodily harm.

The bill specifies the individuals who are prohibited from publicly disclosing any information concerning the relinquishment of an infant and individual involved except as otherwise required by law. The bill states the prohibition applies to medical professionals, employees, and other persons engaged in the administration or operation of:

- An authorized facility;
- A newborn safety device;
- Agencies providing services for children in need of care; or
- Any location where an infant has been surrendered under the Act.

Amendment to Child Abandonment Statute

The bill amends the criminal child abandonment statute to reflect language amended in the Act.

Child Abuse Review and Evaluation (CARE) Program

Definitions

The bill adds the following definitions to the Code:

- "Child abuse medical resource center" means a medical institution affiliated with an accredited children's hospital or a recognized institution of higher education that has an accredited medical school program with board-certified child abuse pediatricians who provide training, support, mentoring, and peer review to CARE providers on CARE exams;
- "Child abuse review and evaluation exam" or "CARE exam" means a forensic medical evaluation of a child alleged to be a victim of abuse or neglect conducted by a CARE provider;
- "Child abuse review and evaluation network" or "CARE network" means a network of CARE providers, child abuse medical resource centers, and any medical provider associated with a child advocacy center that has the ability to conduct a CARE exam that collaborate to improve services provided to a child alleged to be a victim of abuse or neglect;
- "Child abuse review and evaluation provider" or "CARE provider" means a person licensed to practice medicine and surgery, advanced practice registered nurse, or licensed physician assistant who performs CARE exams of and provides medical diagnosis and treatment to a child alleged to be a victim of abuse or neglect and who receives:
  - Kansas-based initial intensive training regarding child maltreatment from the CARE network;
  - Continuous trainings on child maltreatment from the CARE network; and
  - Peer review and new provider mentoring regarding medical evaluations from a child abuse medical resource center; and
- "Child abuse review and evaluation referral" or "CARE referral" means a brief written review of allegations of physical abuse, emotional abuse, medical neglect, or physical neglect submitted by the Secretary for Children and Families or law enforcement agency to a child abuse medical resource center for a recommendation of such child's need for medical care that may include a CARE exam.

CARE Referrals

Continuing law in the Code requires, as part of any investigation of reports of child abuse or neglect, the Secretary or the investigating law enforcement agency to visually observe the child who is the alleged victim of abuse or neglect.

The bill amends the Code to require the Secretary for Children and Families or a law enforcement agency, upon investigation by law enforcement or assignment by the Secretary of any investigation of physical abuse or physical neglect, pursuant to this provision, that concerns a child five years of age or younger, to make a CARE referral for such child. The bill allows, in any other investigation of physical abuse, emotional abuse, medical neglect, or physical neglect conducted pursuant to the section, the Secretary, the law enforcement agency, or the agency's designee to make a CARE referral for such child.

CARE Exams and Review

The bill requires a CARE provider, when a CARE referral by a child abuse medical resource center recommends a CARE exam be conducted by such CARE provider during an investigation of child abuse or neglect, to report a determination in a completed review that a child has been subject to physical abuse, emotional abuse, medical neglect, or physical neglect to the Secretary for Children and Families, the local law enforcement agency, or the agency's designee, if such a determination is made. The bill requires the Secretary, upon receipt of such review, to consider and include the review in making recommendations regarding the care, safety, and placement of the child and maintain the review in the case record.

The bill provides such review to be confidential and not be disclosed, with certain exceptions outlined in the bill and in continuing law.

The bill specifies that, in order to provide forensic evaluation services to a child alleged to be a victim of physical abuse, emotional abuse, medical neglect, or physical neglect in investigations that include a CARE exam:

- Child abuse medical resource centers be allowed to collaborate directly or through technology with CARE providers to provide forensic medical evaluations, medical training, support, mentoring, and peer review to enhance the skill and role of child abuse medical resource centers and the CARE providers in a multidisciplinary context;

- CARE providers and child abuse medical resource centers be required to provide and receive specialized training for medical evaluations conducted in a hospital or child advocacy center, or by a private health care professional, without the need for an agreement between such center and provider; and

- The CARE network be required to develop recommendations concerning the medical-based screening process and forensic evidence collection for a child and provide such recommendations to CARE providers, child advocacy centers, hospitals, and licensed practitioners.

Responsibilities of the Secretary of Health and Environment

The bill requires the Secretary of Health and Environment to implement and administer training for CARE providers to establish and maintain compliance with the requirements of the Code and assist in the implementation of the bill's provisions.

The bill requires the Secretary of Health and Environment to pay for and manage a network referral system and to adopt rules and regulations as necessary, subject to available appropriations. A CARE provider is required to submit all charges for payment of reviews and CARE exams to the Secretary within 90 days of performing a CARE review or exam. The Secretary is required to pay all charges directly to a CARE provider within 30 days after charges are submitted. The bill specifies such payment amount to be only for the exam at a rate not to exceed $750, excluding treatment that may be required due to the diagnosis, or any facility fees, supplies, or laboratory or radiology testing.

The bill also bans a provider found to have submitted fraudulent charges from the CARE network, requires the Secretary of Health and Environment to report such incident to the provider's licensing board, and requires such licensing board to investigate the Secretary's report to determine whether unprofessional conduct had occurred.

The bill also requires the Secretary of Health and Environment to prepare and present, on or before January 31, 2024, a report to House Committee on Child Welfare and Foster Care and the Senate Committee on Public Health and Welfare, or their successor committees, of the activities and operations under the CARE Program. The bill requires the report to include specified items.

CARE Fund

The bill establishes in the State Treasury the Child Abuse Review and Evaluation Fund (Fund), to be administered by the Secretary of Health and Environment. The bill requires all expenditures from the Fund to be for payments of CARE exams, training of CARE providers, and the implementation and administration of the CARE program, as described above. The bill requires all expenditures from the Fund to be made in accordance with appropriation acts upon warrants of the Director of Accounts and Reports issued pursuant to vouchers approved by the Secretary or the Secretary's designee. The bill requires all moneys received for CARE exams and CARE provider training to be remitted to the State Treasurer and requires the State Treasurer to deposit the entire amount in the State Treasury to the credit of the Fund.

Representative Gail Finney Memorial Foster Care Bill of Rights

Jurisdiction, Indian Child Welfare Act

The bill amends law governing jurisdiction of proceedings under the Code to specify the provisions contained in the Bill of Rights may not apply when an Indian child is involved in a child in need of care (CINC) proceeding, and states the ICWA applies instead.

Definition of "Kinship Caregiver"

The bill adds a definition of "kinship caregiver" to the Code: an adult that the Secretary for Children and Families has selected for placement for a CINC with whom the child or child's parent already has close emotional ties.

Rights of Foster Youth

The bill provides that, consistent with the policy of the State expressed in the Code to provide proper care and protection of foster youth, such youth have certain rights, as described by the bill, unless otherwise ordered by the court.

Rights of Foster Parents and Kinship Caregivers

The bill states that, consistent with the policy of the State expressed in the Code to ensure active participation of foster parents and kinship caregivers as an integral, indispensable, and vital role in the State's efforts to care for foster youth, such foster parents and kinship caregivers have certain rights, as described by the bill, unless otherwise ordered by the court.

Notification of Rights; Prohibition on Private Right of Action

The bill requires the Secretary for Children and Families to provide written and oral notification of the Bill of Rights as well as information for filing complaints to foster youth, foster parents, and kinship caregivers, and make the Bill of Rights available on the Secretary's website.

The bill also requires case management providers to make available physical and digital copies of the Bill of Rights.

The bill specifies that the Bill of Rights does not create a private right of action independent of the Code, but may be enforced through equitable relief in a corresponding CINC case.

Child Care Centers and Homes; Senate Sub. for HB 2344

Senate Sub. for HB 2344 establishes and updates law regulating child care centers and child care homes. The bill provides certain definitions, provides license capacity and staff-to-child ratios, and establishes staffing requirements, including professional development training.

Definitions

The bill defines the following terms:

- "Assistant teacher" means an individual who is 18 years of age or older and completes staff orientation at the time of employment;
- "Child care center" means a facility that meets child care center regulations and provides care and educational activities for children who are 2 weeks to 10 years of age for at least 3 hours but less than 24 hours per day or care before and after school for school-age children;

- “Child care home” means premises where care is provided for a maximum of 12 children under 10 years of age by one provider or a maximum of 17 children under 10 years of age by two or more providers, provided all children enrolled are at least 2-1/2 years old, but under 10 years of age. Additionally, no more than 8 children under the age of 5 can be cared for with one provider and no more than 12 children with two or more providers;

- ”Day care facility” has the same meaning as in current law but would not include a drop-in program;

- ”Drop-in program” means the same as defined in KSA 65-527, which is a child care facility that is not located in an individual’s residence that serves exclusively school-age children and youth where the operator permits children and youth to arrive at and depart from the program at the child or youth’s own volition at unscheduled times;

- “Infant” means a child who is between 2 weeks and 12 months of age or a child older than 12 months of age who has not learned how to walk;

- “Lead teacher” means an individual who is 18 years of age or older, has a high school diploma or equivalent education, and meets the training requirements in the bill;

- “Licensure year” means the period of time beginning on the effective date and ending on the expiration date of a license;

- “Program director” means the staff member of a child care center who is at least 18 years of age; meets the training requirements for the license capacity of the child care center; and is responsible for implementing and supervising the comprehensive and coordinated plan of activities that provide for the education, care, protection, and development of children who attend a child care center;

- “School-age” means a child who will be at least 6 years of age on or before the first day of September of any school year, but is under the age of 16;

- “Toddler” means a child a who has learned to walk and is at least 12 months, but less than 30 months of age; and

- “Unit” means the number of children that may be present in one group in a child care center.

Staff Training and Education Requirements

Program Director for Child Care Centers

The bill requires a child care center to have a program director on the premises. The Secretary of Health and Environment (Secretary) cannot require a program director to have

training requirements that are more restrictive than those outlined below. Related training is defined to include, but not be limited to, early childhood education, elementary education, special education, speech pathology, occupational therapy, social work, or family science and human development.

- If a child care center is licensed for fewer than 18 children, the program director needs:
  - Three months experience in a licensed child care facility, preschool, or working with children in a related field;
  - Five sessions of observation for at least two and a half consecutive hours per observation in a licensed day care facility and ten hours of workshops approved by the state licensing staff;
  - At least three credit hours from a postsecondary educational institution or equivalent training in childhood development, early childhood education, or curriculum resources, and supervised observation in high school or college and three months caring for children in a licensed child care facility or preschool or working with children in a related field; or
  - A child development associate credential.
- If a child care center is licensed for at least 18 but no more than 36 children, the program director needs:
  - Five sessions of observation for at least two and a half consecutive hours per observation in a licensed day care facility and six months of teaching experience or a supervised practicum in a licensed child care facility or preschool or a related field;
  - Six credit hours from a postsecondary educational institution or equivalent training in childhood development, early childhood education, or curriculum resources, and three months experience teaching in a licensed child care facility or preschool, or working with children in a related field or one year of supervised practicum in a licensed child care facility; or
  - A child development associate credential.
- If a child care center is licensed for 36 or more children, the program director needs:
  - Six credit hours from a postsecondary educational institution or equivalent training in childhood development, early childhood education, curriculum resources, nutrition, child guidance, parent education, supervised practicum or administration of early childhood programs, and six months of experience teaching in a licensed child care facility, preschool, or working with children in a related field;
  - A child development associate credential, an associate of arts degree, or a two-year certificate in child development, and nine months of teaching experience or supervised practicum in a licensed child care facility or preschool, or working with children in a related field;

- ○ A bachelor of arts or science degree in child development or early childhood education, including a supervised practicum and three months experience teaching in a licensed child care facility or preschool or working with children in a related field; or
- ○ A bachelor of arts or a bachelor of science degree in a related academic discipline and 12 hours of academic study or equivalent training in child development, early childhood education, curriculum resources, nutrition, child guidance, parent education, supervised practicum, or administration of early childhood programs, and six months of experience teaching in a licensed child care facility, preschool or working with children in a related field;

- The bill requires a child care center that is licensed for more than 75 children to have:
  - A program director employed full-time; and
  - An administrator, who may also be the program director.
- The bill allows the program director or administrator to perform the duties of a lead teacher or assistant teacher for up to half of total hours worked during each month.

Lead Teacher

The bill requires a lead teacher to be 18 years of age or older, possess a a high school diploma or equivalent education, and have:

- Three months of experience caring for children in a licensed child care facility or preschool, or working with children in a related field;
- Thirty days' teaching experience in a licensed child care facility, preschool, or a related field;
- Five sessions of observation for at least two and a half consecutive hours per observation in a licensed day care facility and ten clock hours of workshops approved by the state licensing staff; or
- At least three credit hours or equivalent training in childhood development, early childhood education, or curriculum resources, and supervised observation in high school or college.

Assistant Teacher

The bill requires an assistant teacher to be 16 years of age or older and complete staff orientation at the time of employment.

Child Care Units

The bill requires a unit with at least one infant to have at least one lead teacher. A unit where all children are at least 12 months old is required to have at least one lead teacher or assistant teacher present. All staff members are required to be at least three years older than the oldest child in the unit.

Professional Development

The bill requires any staff member who provides care to children in a child care center or a child care home to complete at least 12 hours of professional development training per year. The bill allows the Secretary to specify the training for at least 8 of the 12 hours. The bill also requires an individual who provides care to children in a child care center or a child care home to provide proof of completion for up to four hours of training to the Secretary and requires the Secretary to retain records of an individual's professional development.

The bill requires a person who maintains a child care home with one provider, if caring for four infants at once at any time during the licensure year, to submit proof of completion of at least three hours of professional development training in an infant-specific subject to the Secretary and require the Secretary to retain records of such compliance.

License Capacity

The bill allows a child care home with one provider to have a license capacity of 12 children, if the children enrolled are all at least 2-1/2 years of age, but under the age of 10. The bill also requires a second provider if the number of children present exceeds the maximum number allowed for one provider.

If all enrolled children are not between the ages of 2-1/2 and 10 years of age, the bill sets the maximum number of children for a child care home with one provider as follows:

Under 12 months of age	At least 12 months of age, but under 5 years of age	At least 5 years of age, but under 10 years of age	License Capacity
0	8	4	12
1	7	4	12
2	4	4	10
3	3	3	9
4	2	2	8

The bill allows a child care home with two providers to have a license capacity of 17 children, if the children enrolled are all at least 2-1/2 years of age, but under the age of 10.

If all enrolled children are not between the ages of 2-1/2 and 10 years of age, the bill sets the maximum numbers of children for a child care home with two providers as follows:

Under 12 months of age	At least 12 months of age, but under 5 years of age	At least 5 years of age, but under 10 years of age	License Capacity
0	12	5	17
1	11	5	17
2	10	4	16
3	9	4	16
4	8	3	15

The bill allows children five years of age and older to be substituted for younger children in the license capacity for child care homes with one or two providers. The bill also allows one or two children who are 2-1/2 years of age or older to not be counted toward license if they are present in the child care home between 11:00 a.m. and 1:00 p.m. for the noon meal.

The bill also allows one or two children who are at least 5 years of age, but under the age of 10, to not be counted toward the license capacity of the child care home if they are present:

- During the academic school year before and after school, in-service days, school holidays, scheduled or emergency closures, and school breaks not to exceed two consecutive weeks;
- During the two consecutive weeks before the opening of the academic school year in August or September; or
- During the two consecutive weeks following the end of the academic school year in May or June.

The bill also allows no more than two children who are at least 10 years of age and unrelated to the applicant or licensee to be present for up to two hours each day during child care hours if the additional children are:

- Not on the premises for the purposes of receiving child care in the facility;
- Visiting the applicant's or licensee's own child or children; or
- Supervised by a provider if they have access to the children in care.

Staff-to-Child Ratio in Child Care Centers

The bill sets the ratio of staff members to children in a child care center based on the ages of the children as follows and requires that no child be left unsupervised:

Age of Children	Minimum per Unit	Maximum
Infants	1 to 4	12

Infants and other children under age 6	1 to 6 (including 3 or fewer infants)	12 (including six or fewer infants)
Toddlers	1 to 6	12
Children at least 2 but under 3 years of age	8	16
Children at least 2-1/2 years of age but under school age	12	24
Children at least 3 years of age or under	15	30
Kindergarten enrollees	20	40
School age	20	40

Local Ordinances

The bill prohibits local governments from adopting an ordinance, resolution, or regulation that is more restrictive than defined for license capacity for child care homes or staff-to-child ratios for child care centers.

The bill requires child care centers to meet fire protection, water supply, and sewage disposal requirements of the State Fire Marshal and the local jurisdiction. The bill also would require a designated area for children's activities to contain a minimum of 28 square feet of floor space per child, excluding kitchens, passageways, storage areas, and bathrooms, and a minimum of 60 square feet of outdoor play space for each child using the space at a given time.

Licensing

The bill clarifies conditions on expedited occupational credentialing to include any licensing of individuals by the Secretary. The bill removes the annual fee for child care centers, day care homes, and group day care homes; however, the bill requires these facilities to pay a $75 fee if they fail to renew their license in the appropriate time frame.

The bill prohibits the Secretary from requiring the licensee to live in the child care home.

The bill allows a licensee to request and allow the Secretary to waive any requirements for a day care facility for a set period of time.

Pilot Programs

The bill allows the Secretary to develop and operate a pilot program designed to increase the availability or capacity of child care facilities or drop-in programs. The Secretary can waive the requirements related to licensure and operation of the child care facility, including staff requirements. The bill prohibits the Secretary from granting a license for a pilot if the Secretary determines that a day care facility or drop-in program or staff of such facility or program may endanger the health, safety, and welfare of any child.

The bill allows a pilot program to be in operation for up to five years and allows the Secretary to extend the pilot program for an additional two years.

If the Secretary determines a pilot program has been successful and increases the availability or capacity of child care facilities in the state, the bill also requires the Secretary to make suggestions and recommendations for statutory changes related to day care facilities and drop-in programs and adopt any rules and regulations consistent with the findings of such pilot program, including additional licensure categories and requirements for such categories.

The Secretary is required to prepare and submit a report on or before the first day of each regular session of the Legislature regarding any pilot program. The content of the report would be as outlined in the bill.

Use of Hygiene Products

The bill provides child care facilities with the option to use toothbrushes after meals or as appropriate.

The bill also clarifies that maternity centers and child care facilities are required to provide each resident and employee with an individual towel, washcloth, or disposable products.

CORRECTIONS AND JUVENILE JUSTICE

Updates to County Jail Statutes; Reimbursement of Costs for Prisoners Awaiting Competency Determinations; SB 228

SB 228 updates language in Article 19 of Chapter 19 of the *Kansas Statutes Annotated* concerning county jails. In addition to changes made to modernize language throughout the Article, the bill amends provisions relating to jails and prisoners. The bill also creates law concerning reimbursement of costs when a person is confined in a county jail awaiting examination, evaluation, or treatment for competency to stand trial under the Kansas Code of Criminal Procedure.

Reimbursement of Costs Related to Determining Competency

The bill requires, whenever a person is in the custody of a county jail awaiting examination, evaluation, or treatment pursuant to the Kansas Code of Criminal Code of Procedure, the Secretary for Aging and Disability Services (Secretary) to reimburse such county for costs related to the custody at the rate of $100 per day.

The bill defines “county jail” to mean a jail operated by a county or a consolidated law enforcement agency.

Calculation of Compensation

The bill specifies the time period that applies for the purpose of calculating the required compensation to a county as follows:

- If a person is awaiting examination or evaluation, from the date the request for examination or evaluation is made until the date the person is taken from confinement in the county jail for such examination or evaluation or until the evaluation is completed at the county jail; and

- If a person is awaiting treatment, from the date of return for confinement in the county jail from examination or evaluation or the same is completed at the county jail until the date the person is taken from confinement in the county jail or until treatment is completed at the county jail.

Procedure for Reimbursement

The bill specifies that, on and after July 1, 2022, if a county has a claim for reimbursement of costs pursuant to the bill, the county is required to notify and provide documentation of such costs to the Secretary on a quarterly basis.

The bill requires the amount of moneys attributable to the costs to be certified by the Secretary. Upon certification, moneys are transferred from the State General Fund to the County Competency Expense Fund, which is created by the bill.

The bill also requires the Secretary to develop and implement a procedure to provide reimbursement payments to counties on a quarterly basis.

County Competency Expense Fund

The bill establishes in the State Treasury a County Competency Expense Fund, to be administered by the Secretary for the purpose of reimbursing counties for costs as provided by the bill. The bill specifies if no moneys are available in the Fund, a county may file a claim against the State to seek reimbursement.

Jails in Every County

The bill amends a provision requiring every county to have a jail at the county seat and instead requires every county to provide jail services at the expense of the county.

Keeping and Managing Prisoners

The bill amends a provision governing the manner in which the sheriff keeps the jail and manages prisoners to clarify each sex, female and male, is always to be kept in separate rooms, and defines the term “sex” for the purpose of the section to mean an individual’s biological sex, either male or female, at birth. The bill further defines a “female” as an individual whose biological reproductive system is developed to produce ova, and a “male” as an individual whose biological reproductive system is developed to fertilize the ova of a female.

The bill also clarifies the sheriff is required to supply food, drink, and medical care for prisoners.

Calendar of Prisoners

The bill amends provisions governing the requirement of a county sheriff to keep a true and exact calendar of all prisoners committed to the county by modernizing the language to reflect release or escape from the jail. The bill also adds a requirement that the sheriff provide a physical or electronic copy of the calendar or otherwise allow the court to access an electronic record of the calendar.

Prisoner Sent to Jail in Nearest County

The bill amends a provision which authorizes a district court judge in a county where there is not a sufficient jail in which to house a prisoner to clarify such authorization is to commit such prisoner to a jail of the nearest county that has sufficient space and the means to care for the inmate as determined by the sheriff or keeper of that jail. The bill also provides that the sheriff of the county that has ordered the commitment is responsible for transportation of the prisoner.

Demolition or Repurposing of County Jails

In a provision governing what a board of county commissioners may do with a jail in its county that is no longer needed for jail purposes, the bill authorizes the board to demolish or repurpose the jail or site as the board deems to be in the best interests of the county.

Commitment of Prisoners in City Jails

The bill amends a provision authorizing a county without a sufficient jail to contract with any city in the county for the use of the jail to house county prisoners to allow a county to contract with any city or county in the state that has an adequate jail. The bill also requires the sheriff of the county that has ordered commitment to be responsible for transportation of the prisoner.

Medical Clearance of Persons Before Detention

The bill amends a provision governing requirements related to a sheriff or keeper of a jail receipt of prisoners by proper authority with respect to requirements relating to medical care.

The bill states that the sheriff or keeper of the jail is not required to receive or detain a prisoner who is in the custody of an arresting agency until the prisoner has been examined by a medical care facility or health care provider if the prisoner appears to be:

- Unconscious or having been unconscious at any time during custody or during the events leading to the person’s custody;
- Suffering from a serious illness, as defined by the bill;
- Suffering from a serious injury, as defined by the bill; or
- Seriously impaired by alcohol or drugs or combination thereof.

The bill clarifies the definition of “arresting agency” does not include a surety, bail agent, or bail enforcement agent who arrests a person who was released on an appearance bond.

The bill clarifies the prisoner receiving an examination remains in the custody of the arresting agency during such examination.

The bill provides the cost of the examination and resulting treatment is the financial responsibility of the prisoner receiving the examination or treatment in accordance with continuing law governing the payment of, and reimbursement for, medical costs of prisoners.

Correctional Institution Name Changes; HB 2214

HB 2214 amends the definition of “correctional institution” in the Department of Corrections (KDOC) definitions statute. The amended definition:

- Changes the name of the Larned Correctional Mental Health Facility to the Larned State Correctional Facility;
- Removes references to the Osawatomie Correctional Facility and Toronto Correctional Work Facility that are no longer open;
- Includes "any juvenile correctional facility or institution" as defined in the Revised Kansas Juvenile Justice Code; and
- Includes any other correctional institution for "adult and juvenile" offenders.

The bill also amends the definition for "correctional institution" in a statute regarding public-private partnerships for correctional institution construction projects to reference the Department of Corrections definitions statute.

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

COURTS

Rate of Legal Interest; SB 75

SB 75 amends law governing the rate of legal interest for civil tort actions where prejudgment interest is awarded.

In all civil tort actions filed on or after July 1, 2023, the rate is set at two percentage points below the rate specified as calculated and published by the Secretary of State each July, as provided by continuing law. [*Note:* KSA 16-204(e)(1) outlines the calculation and publication schedule for such rates.]

Kansas Probate Code—Slayer Rule; HB 2027

HB 2027 amends the "slayer rule" in the Kansas Probate Code to create a procedure to prevent the distribution of estate assets until the resolution of criminal proceedings involving a person who has interest in the estate and who has been arrested or charged with the felonious killing of the decedent.

[*Note:* The bill contains a whereas clause designating its provisions as Karen's Law.]

Designated Beneficiary

Current law prohibits persons convicted of feloniously killing, or procuring the killing of another person, from receiving any portion of the estate or property in which the decedent has an interest by specifying ways in which that transfer could not occur. The bill adds the circumstances in which the person convicted of such crime is a designated beneficiary of real or personal property of the decedent.

Court Order

The bill allows a court to prohibit the sale, distribution, spending, or use of the decedent's asset or interest, or a portion of such by a person who has been arrested for or charged with the felonious killing or procuring the killing of the decedent.

The bill allows the court to make such order based on its own motion or upon the written request of any party and may enter the order *ex parte* upon a showing of criminal charges filed against a person interested in the estate.

Modification or Termination of a Court Order

The bill specifies a court order will be in effect until modified or terminated by the court. However, if a person subject to the order makes a written request, the court will be required to fix the time and place for the hearing and provide notice of the hearing.

The court will be required to terminate the order if the court finds any of the following events relating to the arrest or charges that were the basis for the order have occurred:

- Dismissal of all charges;
- Acquittal of all charges;
- Conviction or other disposition; or
- Expungement of the arrest records by court order pursuant to continuing law.

Name Changes in Divorce; HB 2065

HB 2065 modifies law governing name changes during a divorce to allow the court to change a spouse's name to a name other than the spouse's former name at the request of the spouse and gives the court jurisdiction to make such a change at or after the time the decree of divorce becomes final. The bill removes reference to a maiden name. Under continuing law, the court may order restoration of the spouse's former name.

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

CRIMES AND CRIMINAL MATTERS

Crime of Human Smuggling; HB 2350

HB 2350 creates the crimes of human smuggling and aggravated human smuggling, provides for criminal penalties, and makes these provisions supplemental to the Kansas Criminal Code.

Crime of Human Smuggling

The bill defines the crime of human smuggling as intentionally transporting, harboring, or concealing an individual into or within Kansas when the person:

- Knows, or should have known, that the individual is entering into or remaining in the United States illegally;
- Benefits financially or receives anything of value; and
- Knows, or should have known, that the individual being smuggled is likely to be exploited for the financial gain of another.

The bill makes the crime of human smuggling a severity level 5 person felony.

Crime of Aggravated Human Smuggling

The bill defines aggravated human smuggling as human smuggling that:

- Is committed using a deadly weapon or by threat of use of a deadly weapon;
- Causes bodily harm, great bodily harm, or disfigurement to the individual being smuggled; or
- Causes the individual being smuggled to become a victim of a sex offense, or human trafficking, or causes the person to commit selling sexual relations, all as defined in statute.

The bill makes the crime of aggravated human smuggling a severity level 3 person felony.

EDUCATION

Interstate Teacher Mobility Compact and Verified Electronic Credentials; SB 66

SB 66 enacts the Interstate Teacher Mobility Compact (Compact). In addition, the bill requires state licensing bodies to provide paper-based and verified electronic credentials to all credential holders and to also utilize a centralized electronic credential data management system.

Interstate Teacher Mobility Compact

The bill enacts the Compact, the provisions of which are outlined below. [*Note:* The provisions of the Compact will be effective on the date that the tenth member state enacts the Compact statute into law.]

Purpose

The bill states the purpose of the Compact is to facilitate the mobility of teachers across the member states with the goal of establishing a new and expedited pathway to licensure.

Definitions

The bill defines various terms used throughout the Compact.

Licensure Under the Compact

The bill provides licensure requirements for states participating in the Compact. Member states compile a list of licenses that they are willing to consider for equivalency, including licenses that a state is willing to grant to teachers from other member states. The receiving state has the sole discretion of determining which license, if any, the teacher is eligible to hold. Receiving states are required to grant an equivalent license to any active military member and eligible military spouse, as defined in the bill, who holds a license that is not unencumbered. Receiving states are not required to grant an equivalent license to a career and technical education teacher who does not meet the receiving state's industry recognized requirements, including not holding a bachelor's degree.

Licensure Not Under the Compact

The bill state the Compact does not limit the ability of a member state to regulate its licensing authority, nor does the Compact impede member states' control of ownership or dissemination of teacher's information. In the event a teacher is required to renew a license received pursuant to the Compact, the receiving state is able to condition the renewal of the license on the teacher's completion of state-specific requirements.

Teacher Qualifications and Requirements for Licensure Under the Compact

The bill states the Compact requires a teacher to hold an unencumbered license in a member state to be eligible to receive a license through the Compact. The unencumbered license requirement does not apply to active military members or eligible military spouses. If a teacher's license is accepted by the receiving state, the teacher will be required to then undergo a background check and provide other information as necessary to the receiving state.

Discipline and Adverse Actions

The bill states the Compact does not limit a member state's authority to impose disciplinary actions. Upon request of a member state, other member states are required to share information regarding investigations and discipline of teachers. The Compact requires member states to keep shared information secure. Prior to a state disclosing information it received, the state is required to inform the original state of its intent to disclose the information received.

Establishment of the Interstate Teacher Mobility Compact Commission

The bill creates the Interstate Teacher Mobility Compact Commission (Commission) and includes provisions relating to the membership, voting, powers and duties, and financing of the Commission. It also creates an executive committee.

Rulemaking

The bill authorizes the Commission to exercise rulemaking powers. Rules, or amendments to the rules, may be adopted or ratified at a regular or special meeting of the Commission. If a majority of the legislatures of the member states reject a rule, the rule will have no further force or effect. Additionally, if certain conditions are met, the Commission is required to grant the opportunity for a public hearing. In the event of an emergency, the Commission can adopt emergency rules.

Facilitating Information Exchange

The bill requires the Commission to facilitate the exchange of information.

Oversight, Dispute Resolution, and Enforcement

The bill provides for dispute resolution and appeals processes of Compact member states. In addition, the Commission is authorized to enforce the legal action in federal court against a member state.

Effective Date, Withdrawal, and Amendment

The bill states the Compact becomes effective on the date that the Compact statute is enacted into law in the tenth member state.

Any member state is allowed to withdraw from the Compact by enacting a statute that repeals the Compact, but this would not take effect until six months after the enactment of the repealing statute. Member states can amend the Compact, but any amendment will not be effective until it is enacted by all member states.

Construction and Severability

The bill requires the Compact to be liberally construed. The provisions of the Compact are severable.

Consistent Effect and Conflict with Other State Laws

The bill states the Compact does not prevent the enforcement of any other law of a member state that is not inconsistent with the Compact. State laws that conflict with the Compact are superseded, to the extent of the conflict. All lawful actions of the Compact Commission are binding upon member states.

Verified Electronic Credentials

The bill requires licensing bodies to provide verified electronic credentials to persons regulated by the licensing body not later than January 1, 2025.

Definitions

The bill defines the term “electronic credential” or “electronic certification, license or registration” to mean an electronic method by which a person displays or transmits to another person information that verifies the status of a person’s certification, licensure, registration or permit as authorized by a licensing body and is equivalent to a paper-based certification, license, registration or permit.

The bill defines the term “person” to mean a natural person.

The bill defines the term “verification system” to mean an electronic method by which the authenticity and validity of electronic credentials are verified.

Paper-based and Verified Electronic License, Registration, or Certification

The bill requires licensing bodies, upon submission of a completed application, to issue a paper-based and verified electronic license, registration, or certification to an applicant so that the applicant may lawfully practice the person’s occupation.

The bill also requires that an applicant who holds a valid current license, registration, or certification in another state, district, or territory of the United States receive a paper-based and verified electronic license, registration, or certification if certain conditions are met.

The bill allows a licensing body to satisfy requirements to provide a paper-based license, registration, certification, or permit by issuing an electronic credential to an applicant in a format

that permits the applicant to print a paper copy of such electronic credential. Such paper copy is considered a valid license, registration, certification, or permit.

Centralized Electronic Credential Data Management Systems

Subject to appropriations, the bill requires the Secretary of Administration (Secretary) to develop and implement a uniform or singular license verification portal for the purpose of verifying or reporting license statuses such as credentials issued, renewed, revoked, or suspended by licensing bodies or that have expired or otherwise changed in status on or before January 1, 2025. The Secretary is permitted to utilize the services or facilities of a third party for the central electronic record system. The bill also requires the central electronic record system to comply with the requirements adopted by the Information Technology Executive Council.

The centralized electronic credential data management system must include an instantaneous verification system that is operated by the licensing body's respective secretary, the secretary's designee, or the secretary's third party agent on behalf of the licensing body for the purpose of instantly verifying the authenticity and validity of electronic credentials issued by the licensing body. The bill requires the centralized electronic credential data management systems to maintain an auditable record of credentials issued by each licensing body.

The bill requires each licensing body, beginning January 1, 2025, to integrate with the uniform or singular license verification portal in the manner and format required by the Secretary indicating any issuance, renewal, revocation, suspension, expiration, or other change in status of an electronic credential.

The bill states that no charge for the establishment or maintenance of the uniform or singular license verification portal may be imposed on any licensing body or any person with a license, registration, certification, or permit issued by a licensing body.

The bill states that a licensing body is not prohibited or prevented from developing, operating, maintaining, or using a separate electronic credential system in addition to making reports to the central electronic record system. The bill also states that a licensing body is not prohibited or prevented from participating in a multi-state compact or a reciprocal licensure, registration, or certification process if the separate electronic credential system of the licensing body integrates with the uniform or singular license verification portal.

Exception for Certification of Law Enforcement Officers

The bill exempts the certification of law enforcement officers pursuant to the Kansas Law Enforcement Training Act from the credentialing provisions related to military service members, military spouses, and individuals establishing residency in Kansas, including the electronic credentialing requirements.

Establishing and Amending Postsecondary Certificate, Grant, and Scholarship Programs; Altering Residency Requirements for Veterans and Their Dependents; SB 123

SB 123 creates the Kansas Adult Learner Grant Act (Adult Learner Act) and a workforce retention incentive tax credit (tax credit); establishes the Career and Technical Education

Credential and Transition Incentive for Employment Success Act; addresses the residency status of veterans, their spouses, and dependents regarding postsecondary tuition and fees; and amends the Kansas Promise Scholarship Act (Promise Act).

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

Kansas Adult Learner Grant Act

Definitions

The bill defines the following terms for purposes of the Adult Learner Act:

- "Adult learner grant eligible program" is any baccalaureate degree offered by an eligible postsecondary education institution that is identified as an "adult learner grant eligible program" by the State Board of Regents (KBOR) or designated as an "adult learner grant eligible program" by an eligible postsecondary educational institution.

- "Eligible postsecondary educational institution" is one of the following:
  - A state educational institution under the control and supervision of the KBOR;
  - A municipal university;
  - Any not-for-profit institution of postsecondary education with its main campus or principal place of operation in Kansas that offers an eligible grant program, is operated independently and not controlled or administered by any state agency or subdivision of the State, maintains open enrollment, and is accredited by a nationally recognized accrediting agency for higher education in the United States; or
  - A not-for-profit independent institution of higher education that is accredited by an institutional accrediting agency recognized by the U.S. Department of Education, is operated independently and not controlled or administered by the State or any agency or subdivision of the state, maintains open enrollment, offers online education, and offers exclusively competency-based education programs; and

- "Part-time student" as a student who is enrolled for six credit hours or more in a semester, or the equivalent, and is not enrolled as a full-time student.

Administration

Rules and regulations. The bill requires KBOR to adopt rules and regulations implementing the program on or before March 1, 2024. The bill requires the rules and regulations to establish:

- Grant application and renewal forms and deadlines;

- Appeal procedures for denial or revocation of a Kansas Adult Learner Grant (grant);
- The terms, conditions, and requirements for the grant consistent with the provisions of the Adult Learner Act; and
- Procedures for requesting and approving medical, military, and personal absences from an eligible postsecondary educational institution while a grant recipient is receiving such grant.

Grant-eligible programs. The bill requires KBOR to identify adult learner grant-eligible programs (grant-eligible programs) offered by each eligible postsecondary educational institution that are in any of the following fields of study:

- Information technology and security;
- Health care and nursing;
- Science, engineering, aerospace, and advanced manufacturing;
- Education, early childhood education, and development;
- Business, accounting, and data analytics; or
- A field designated by the eligible postsecondary institution pursuant to the Adult Learner Act.

The bill allows an eligible postsecondary educational institution to designate one additional grant-eligible program if the additional program is a baccalaureate degree program that corresponds to a high wage, high demand, or critical need occupation. To designate an additional grant-eligible program, the institution must have and maintain an existing grant-eligible program in the above fields of study and maintain the additional grant-eligible program designation for at least four consecutive years. After maintaining the program for at least four years, the institution is authorized to designate a new grant-eligible program that corresponds with a high wage, high demand, or critical need occupation.

Publicity. The bill requires KBOR to work with community partners to publicize grants, including, but not limited to, publicizing eligible postsecondary educational institutions, approved scholarship-eligible educational programs, application procedures, and application deadlines.

Annual evaluation and report. Beginning January 1, 2025, KBOR is required to annually evaluate the program and prepare and submit a report to the Senate Committee on Education, Senate Committee on Commerce, House Committee on Education, and House Committee on Commerce, Labor and Economic Development.

Grant Specifications

Grant amount. The bill requires grant amounts to be $3,000 per semester for students who are enrolled full-time. The grant amount will be prorated using a sliding scale for students who are not enrolled full-time. The bill specifies full-time enrollment is 12 credit hours per semester and would qualify for a 100 percent grant, and 6 credit hours would qualify for a 50 percent grant.

Grant expenditure. The bill allows for grants to be expended only for purposes of tuition and required fees, books, and materials.

Duration. The bill allows students to receive a grant for up to 48 months after the date that the grant was first awarded or upon graduation from the program, whichever comes first.

Income limitation. The bill limits grants to eligible students whose family household income is less than or equal to the following amounts:

- $100,000 for a family of two;
- $150,000 for a family of three; and
- $150,000 plus $4,800 per additional family member beyond three.

Kansas Adult Learner Grant Agreements

The bill requires each eligible student who receives a grant to enter into an agreement with the postsecondary educational institution that requires the student to do the following:

- Enroll as a full- or part-time student at the eligible postsecondary institution;
- Do one of the following within six months of graduation from a grant-eligible program:
  - Reside and commence work in the state of Kansas for a minimum of two consecutive years; or
  - Enroll as a full- or part-time student in any public or private postsecondary educational institution whose primary location is in Kansas and upon graduation, reside and work in the state for a minimum of two years;
- Maintain records and make reports to KBOR as required by KBOR; and
- Repay the amount of the grant received by the student should the student fail to satisfy the requirements of the agreement.

The bill requires all eligible postsecondary educational institutions to provide counseling to each eligible student regarding the requirements and conditions of the agreement. All repayments made by students for failure to satisfy the requirements of an agreement must be for the amount of the grant with interest as determined by the federal PLUS program.

The bill recognizes KBOR as the sole entity responsible for the collection of all repayments of grant funds and authorizes KBOR to utilize designated loan servicers and

collection agencies to collect on KBOR's behalf. To aid with the collection of repayments, the bill stipulates that all postsecondary educational institutions and state agencies must provide KBOR with a student's academic, employment, residency, and contact information for the following purposes:

- Determining whether a student has satisfied their agreement; and
- Aiding in the collection of repayments of funds under the bill.

All eligible postsecondary educational institutions are required by the bill to annually provide the last known contact information for each student who had received a grant until the requirements of the agreement are met.

Appropriations Made for Adult Learner Grant Eligible Program

The bill limits the appropriations made for the Adult Learner Grant Eligible program per fiscal year to $1.0 million.

Student Eligibility

To be eligible for a grant, the bill requires a student to:

- Be a Kansas resident;
- Be 25 years of age or older at the time the student's first course that is funded by a grant begins;
- Complete the free application for federal student aid for the academic year in which the student applies to receive a grant; and
- Enroll as a full- or part-time student at an eligible postsecondary educational institution in an adult learner grant-eligible program.

A student will continue to receive a grant if the student maintains satisfactory academic progress toward completion of the grant-eligible program, maintains a minimum of a 2.0 cumulative grade point average, completes a grant renewal application on such forms in such manner as established by the KBOR, and completes the free application for federal student aid for the academic year for which the student applies to renew the grant.

Kansas Workforce Retention Incentive Tax Credit

The bill establishes a tax credit of $1,500 for individuals who receive a grant if they demonstrate satisfactorily to the Secretary of Revenue (Secretary) that they successfully completed their grant-eligible program with the awarding of their degree and either:

- Currently reside in Kansas and have resided in Kansas for at least two consecutive years following the completion of their program and are currently employed in Kansas; or

- Have commenced service as a military service member.

To claim the tax credit, the bill requires an individual to submit information and documentation to the Secretary in a form and manner required by the Secretary.

The bill requires individuals to claim the tax credit no later than the fifth taxable year after the taxable year in which the individual successfully completed the grant-eligible program with an award of their degree.

Any amount of the tax credit that exceeds the individual’s tax liability can be carried forward once to the next succeeding taxable year as a credit against the individual’s income tax liability for such year. Any amount of the tax credit remaining after being carried forward once will be forfeited.

The bill requires the Secretary to adopt rules and regulations implementing and administering the tax credit on or before March 1, 2024. The bill requires the rules and regulations to include criteria to determine whether a student who has received a grant has fulfilled the residency and employment requirements to qualify for the tax credit.

Kansas Adult Learner Grant Program Fund

The bill creates the Kansas Adult Learner Grant Program Fund (Fund) to be administered by KBOR. All expenditures from the Fund will be for grants awarded pursuant to the program and in accordance with appropriation acts.

Sunset

The bill establishes a sunset of July 1, 2028, for the Adult Learner Act.

Career and Technical Education Credential and Transition Incentive for Employment Success Act

The bill establishes the Career and Technical Education Credential and Transition Incentive for Employment Success Act.

The bill requires all school districts and colleges that offer career technical education (CTE) for students in grades 9–12 to, upon request of the student, pay any fees associated with any assessment or examination required for the student to obtain the industry-sought credential associated with the student’s CTE program.

The bill defines the term “industry-sought credential” as a CTE credential that meets the following criteria:

- Repeatedly referenced in job postings; and

- Frequently referred to by employers in communications with a school district as a CTE credential in demand.

The bill requires the State Board of Education (State Board) and KBOR, on or before July 1, 2023, and on an annual basis thereafter, to jointly approve a list of industry-sought credentials. The Board and KBOR are required to consult with the following individuals when determining the list of credentials:

- Secretary of Labor;
- Secretary of Commerce; and
- Representatives of industries that recognize CTE credentials.

The bill further requires the State Board and KBOR to conduct an annual survey commencing on or before July 1, 2023, of all CTE credentials offered by school districts and colleges which meet the definition of "industry-sought credential."

Veteran Residency Requirements for Postsecondary Tuition

In law, regarding residency in Kansas for purposes of tuition and fees at a postsecondary educational institution, the bill replaces the requirement that a veteran must have been permanently stationed in Kansas with a requirement that a veteran must have been stationed in Kansas for at least 11 months during service in the armed forces. The person seeking to be deemed a resident for the purpose of tuition are still required to live in Kansas at the time of enrollment.

[*Note:* Current law provides that for a veteran, or the spouse or dependent of a veteran, to be deemed a resident of Kansas for tuition purposes, a veteran must either have been permanently stationed in Kansas during service in the armed forces or have established residency in Kansas prior to service in the armed forces.]

In addition, the bill removes outdated language.

Kansas Promise Scholarship Act

Eligible Fields of Study, Promise-eligible Programs

The bill adds both elementary and secondary education programs to the fields of study designated by an eligible postsecondary educational institution for which scholarships are available under the Kansas Promise Scholarship Act (Promise Act). The continuing fields of study are:

- Information technology and security;
- Mental and physical health care;
- Advanced manufacturing and building trades; or
- Early childhood education.

Designation of Additional Fields of Study, Local Employment Needs

The bill also updates the eligible fields of study that a college could choose to add to the other scholarship-eligible fields of study (*e.g.*, agriculture, education, and training). The bill adds the term "transportation" to the field of study currently listed as "distribution and logistics."

Scholarship Award Amount Determination

The bill clarifies that, for students enrolled in a Promise Act-eligible program at a private college, the scholarship amount would be:

> The **aggregate amount** of tuition, mandatory fees, and the cost of books and materials for the academic year in which the student is enrolled and receiving the scholarship minus the **aggregate amount** of all other aid awarded to the student.

[*Note:* The bill maintains the requirement that the Kansas Promise Scholarship award could not exceed the average cost of tuition, required fees, and the cost of books and required materials for the same program at an eligible public college.]

Eligibility Requirements

The bill amends the eligibility requirements for an individual seeking to continue their receipt of a Kansas Promise Scholarship by requiring the individual maintain a minimum of a 2.0 grade point average in the Promise Act-eligible program.

Sunset

The bill establishes a sunset of July 1, 2028, for the Promise Act.

School Boards, Overnight Accommodations and Review of Building Closure Resolutions; Local Broadcasters and KSHSAA; Senate Sub. for HB 2138

Senate Sub. for HB 2138 requires school district boards of education to adopt a policy regarding separate oversight accommodations for students of each biological sex during school district sponsored travel, permits local broadcasters to broadcast a school's regular or postseason activities under certain criteria, and provides for administrative review by the State Board of Education (State Board) of resolutions adopted by school district boards to permanently close a school building.

Effective Date

The bill provides that the provisions relating to a resolution to close a school building, and the potential subsequent review of such resolution, will go into effect and be in force from and after January 1, 2024, and publication in the statute book. All other provisions will be in effect upon publication in the statute book.

Overnight Accommodations

The bill requires each school district's board of education to adopt a policy requiring that separate overnight accommodations be provided for students of each biological sex during school district sponsored travel that requires overnight stays.

Reporting and Retaliation

The bill provides a private cause of action against a school district for any student who is subject to retaliation or adverse actions by a school district or its employees as a result of reporting a violation relating to the overnight accommodations policy. The bill requires such civil actions to be initiated within two years after the harm occurred. Students prevailing in such action would be entitled to monetary damages, including monetary damages for psychological, emotional, and physical harm suffered; for reasonable attorney fees and costs; and for other appropriate relief.

Definitions

The bill establishes definitions for the following terms:

- "Biological sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads and non-ambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience of gender; and

- "School district sponsored travel" means any travel that is necessary for students to attend, participate, or compete in any event or activity that is sponsored or sanctioned by a school operated by the school district, including, but not limited to, any travel that is organized:
    - By any club or organization recognized by the school;
    - Through any communication facilitated by the school, such as email; or
    - Through fundraising activities conducted, in whole or in part, by school district employees or on school district property.

Local Broadcasters; Postseason Activities; Contracts and Agreements

The bill permits local broadcasters to broadcast a school's postseason activities, notwithstanding exclusive contracts entered into by the Kansas State High School Activities Association (KSHSAA) for the purpose of broadcasting postseason activities. [*Note:* KSHSAA has an exclusive broadcast agreement with the National Federation of State High School Associations. The current agreement has five years remaining, along with an optional extension if specific performance metrics are met.]

Definitions

The bill defines various terms, including:

- "Activity" and "activities" mean school activities and contests in the fields of athletics, music, forensics, dramatics, and any other interschool extracurricular activities by students enrolled in any of the grades from 7 to 12, inclusive;

- "Broadcast" means the live or recorded audio or video transmission of an activity, play-by-play, or similar accounts of such activity via radio, television, internet, or other technologies;

- "Exclusive broadcast agreement" means an agreement entered into between KSHSAA and an organization to broadcast association activities under which such organization retains:
  - Sole rights to broadcast such activities; or
  - First right to broadcast such activities; and

- "Local broadcaster" means an organization, located in Kansas, that provides local broadcast services for any activity of a local school. [*Note:* "Local broadcaster" does include a student organization broadcast that is offered as an educational course or program by the school.]

Applicability

Current law allows KSHSAA to enter into an exclusive broadcast agreement for a postseason activity. The bill provides that if KSHSAA enters into or renews an exclusive broadcast agreement to broadcast a regular season activity or postseason activity, local broadcasters would not be prohibited from broadcasting a school's regular season activity or postseason activity if the local broadcaster:

- Provides broadcast services for the school that is participating in the postseason activity;

- Broadcasts at least one-third of the events of such activity during the regular season; and

- Entered into valid broadcast agreements to broadcast the events of the activity during the regular season.

The bill will not prohibit KSHSAA from requiring local broadcasters to enter into a postseason broadcast agreement with stipulations. Stipulations include, but are not be limited to:

- Reasonable compensation for broadcasts, except that no fee shall be charged for such broadcasts;

- Approval by the site hosting the event;

- Limitations on organizations that are permitted to sponsor part of the broadcast; and

- Requirements for competent and professional announcers.

Resolution to Close a School Building

Under current law, a board of education of any unified school district may adopt a resolution to close any school building at any time the board determines the building should be closed to improve the school system. Prior to the adoption of the resolution, a public hearing on the proposal to close a school building must be held. In order for the resolution to be adopted, a majority of the members of the local board of education must vote to adopt the resolution.

Request for Review

The bill allows citizens to request the State Board to conduct an administrative review of a resolution to close a school building. The State Board would be required to conduct an administrative review of a resolution if at least 5.0 percent of registered voters of such school district sign a request for administrative review.

The bill specifies that a request for administrative review would need to be received by the State Board no later than 45 days after the adoption of the resolution to close a school building. If the State Board receives more than one request for review on the same resolution to close a school building, the request(s) received after the initial request could be dismissed or could be combined with the initial request. The bill clarifies that a resolution to close a school building would not be effective until the 45-day time period to request a review has lapsed, so long as no request for review has been received by the State Board.

Administrative Review

The State Board will be required to review the resolution to determine whether it is reasonable under the totality of the circumstances. The bill requires an advisory determination to be issued to the school district no later than 45 days after receipt of the request for review. The advisory determination could include recommendations to modify or to rescind the original resolution to close the school building.

Reconsideration

Upon receipt of the State Board's advisory determination, the local board of education will be required to reconsider the original resolution to close a building. In reconsidering the resolution, the local board of education is required to hold a public hearing. Upon the conclusion of a hearing, the local board of education may issue one of the following determinations on the original resolution:

- Approve the resolution to close the school building;
- Modify and approve the resolution to close the school building; or
- Rescind the resolution to close the school building.

Definitions

The bill defines the term "school building" to mean any building or structure operated or maintained by the board of education of a unified school district.

Parents' Right to Direct the Education, Upbringing, and Moral or Religious Training of Their Children; HB 2236

HB 2236 states that a parent has a right to direct the education, upbringing, and moral or religious training of their children. The bill also directs local boards of education to adopt policies and procedures to guarantee the free exercise of these rights and establish a means by which a parent can remove their child from a lesson or class based upon objections to the course material.

The bill defines the following terms:

- "Activities" includes any presentation, assembly, lecture, or other event facilitated by a school or school district;
  - The term does not include student presentations;
- "Educational materials" includes, but is not limited to, curriculum, textbooks, reading materials, videos, digital materials, websites, online applications, and other material given or provided to a student for instruction; and
- "Parent" means a parent, legal guardian, or custodian who has authority to act on behalf of a child.

The bill allows parents to object to any educational materials or activities at a school district their child attends and withdraw the student from the class or programming if the educational material or activity meets one of the following criteria:

- Is not included in the approved district curriculum or state educational standards; or
- Impairs the parent's sincerely held beliefs, values, or principles.

The bill states the academic record of any student withdrawn from the class, educational program, or activity, based upon the criteria in the bill, cannot be adversely affected by the student's withdrawal.

The bill also states that exemptions from required instruction that are granted by the bill will not excuse a student from the responsibility of completing comparable alternative assignments offered to obtain credit in the course, total semester hours required for attendance, or required courses for graduation by any withdrawal from a class or educational program pursuant to the bill.

The bill specifies that, when appropriate, a student who is excused from an assignment or activity can remain in the classroom, or a placement will be provided to provide the student instructional support.

The bill also requires all local boards of education to adopt policies and procedures to guarantee a parent's free exercise of the rights established by the bill; such policies and procedures would include provisions for the implementation of the bill.

Fairness in Women's Sports Act; HB 2238

HB 2238 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 entities or any school or private postsecondary educational institution whose students or teams compete against a public educational entity to be expressly designated based on biological sex.

[*Note:* This bill appeared in the first publication as a vetoed bill (vetoed by Governor on March 17). On April 5, motions to override the veto on HB 2238 prevailed in the House and Senate. The bill summary is reprinted to reflect passage of the bill.]

Definitions

The bill establishes definitions for six terms, including:

- "Biological sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological or chosen, or subjective experience of gender;

- "Public educational entity" means any public school or postsecondary educational institution;

  - The bill defines a "public school" as any elementary or secondary school maintained and operated by a school district; and

- "School" means any nonpublic school offering any of the grades kindergarten through 12.

Athletic Team Criteria

The bill requires all interscholastic, intercollegiate, intramural, and club athletic teams that are sponsored by public educational entities or any school or private postsecondary institutions whose students 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 further specifies that 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 entities 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 entity or athletic association or organization for reporting a violation of the Act; or
- Any public educational entity 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.

Updated Definitions and References, "Emotional Disability" and "Children with Disabilities"; HB 2322

HB 2322 amends provisions within the Special Education for Exceptional Children Act to define the term "emotional disability," revise the definition of "children with disabilities" to include dyslexia, and replace the term "emotional disturbance" with "emotional disability." The bill also

makes similar updates in the definition of "individuals with disabilities" used in law relating to transition planning services for individuals with disabilities.

The bill defines "emotional disability" to mean the same as the term "emotional disturbance" is used in the federal Individuals with Disabilities Education Act (IDEA; PL 101-476).

ELECTIONS AND ETHICS

Deadline for Advance Voting Ballots; SB 209

SB 209 changes the deadline for all advance voting ballots to be received by the county election officer from the third day following the date of the election to 7:00 p.m. on the date of the election. The deadline change applies to advance voting ballots received by mail or in the office of the county election officer, the satellite election office, any polling place, or a county-maintained election drop box.

Elections and Voting; SB 221

SB 221 amends law on election-related subjects including procedures for write-in candidates for certain elected offices, election administration, qualifications for office, dates and deadlines, notices, certain election crimes, and equipment.

Affidavit for Write-in Candidacy

Deadline to Submit Affidavit for Write-In Candidacy

Current law requires a write-in candidate for the office of President, Vice President, Governor, Lieutenant Governor, or any other statewide elected office to submit an affidavit of write-in candidacy to the Secretary of State (Secretary) by 12:00 noon on the second Monday preceding the general election for such office. The bill changes the deadline applicable to these offices to 12:00 noon on the fourth Monday preceding the general election for such office.

The bill adds a requirement to file an affidavit of write-in candidacy for the offices of U.S. Senator and U.S. Representative with the Secretary by 12:00 noon on the fourth Monday preceding the election at which the write-in candidate seeks nomination or election.

The bill expands the provision to require an affidavit for write-in candidacy to be filed with the Secretary for an individual wishing to run as a write-in candidate for the State House of Representatives, State Senate, or the State Board of Education. The bill requires the write-in candidacy affidavit to be submitted by 12:00 noon on the fourth Monday preceding the election at which the write-in candidate seeks nomination or election.

The bill adds a requirement for any individual wishing to run as a write-in candidate for district judge, district magistrate judge, district attorney, any county officer, or any city officer of a city of the first class to file an affidavit of write-in candidacy with the appropriate county election office by 12:00 noon on the fourth Monday preceding the election at which the write-in candidate seeks nomination or election.

Ballots

The bill removes a provision that states failure to make a cross or check mark in the square to the left of the write-in candidate name would not invalidate that portion of the ballot unless it is impossible to determine the voter’s intention. The removal of this provision means the voter must mark the square by the write-in vote in order for the vote to be counted.

Board of Canvassers

The bill prohibits the Board of Canvassers from counting write-in votes for a candidate for the U.S. Senate, U.S. House of Representatives, State House of Representatives, State Senate, State Board of Education, district judge, district magistrate judge, district attorney, any county officer, or any city officer of a city of the first class unless the candidate has filed an affidavit of candidacy.

Election Administration

Secretary of State

The bill states the Secretary is responsible for assisting and advising county election officers in conducting elections in compliance with federal and state laws and rules and regulations.

The bill adds a deadline—within 20 days after receipt of an independent nominating petition, but not later than the date of the meeting of the State Board of Canvassers—by which the Secretary must determine the validity of independent nominating petitions. If any independent nominating petitions are found to be invalid, the bill requires the Secretary to notify the candidate on whose behalf the petitions were filed of that finding and the reason for it. The bill authorizes the candidate to object to the finding in accordance with procedures in continuing law.

The bill authorizes designees of the Lieutenant Governor, the Attorney General, and the Secretary, as well as those state officers, to determine the validity of any certificate of nomination, nomination petition, or declaration of intention to become a candidate for a national or state office and to constitute the State Board of Canvassers.

The bill authorizes the Secretary, after consulting with the Attorney General, to dismiss a complaint alleging violation of federal voting equipment requirements as specified in Title III of the Help America Vote Act (HAVA), if the complaint fails to allege facts.

County Election Officer

The bill states each county election officer is the sole public officer responsible for planning, conducting, and coordinating elections within that county and is responsible for ensuring the elections comply with federal and state laws and rules and regulations.

The bill prohibits any county election office or county election office employee or agent from creating, or permitting any other person to create, an image of the hard drive of any voting system, optical scanning equipment, or any other voting system that contains a hard drive component without the written consent of the Secretary. The bill also requires each county election officer to create a backup copy of the hard drive of any electronic or electromechanical voting system, optical scanning equipment, or any other voting system that contains a hard drive component immediately before and after any system updates, repairs, or improvements and after each general election. County election officers will be required to maintain such backup copies in a secured location for not less than 22 months.

The bill requires any appointed election commissioner, not just a commissioner in a county of a certain population size, to be responsible for establishing precinct boundaries.

The bill prohibits a county election officer from mailing a ballot to a voter unless that voter has submitted an application for an advance voting ballot or has permanent advance voting ballot status, or the election is conducted pursuant to the Mail Ballot Election Act.

The bill requires the county election officer to publish on the website of the county election office, and furnish to election boards as required by continuing law, printed instructions to voters, a list of voters' rights and responsibilities, a sample ballot, notification of the date of the election, and polling place hours.

Other

Curing a ballot. In the Mail Ballot Election Act, the bill adds signature verification requirements to match those applicable to advance voting by mail ballots, to require the county election office to attempt to contact each person who submits a ballot for which the signature does not match the signature on file and allow the voter the opportunity to correct the deficiency before the county canvass. Signature verification will not be required if the voter has a disability preventing signature or having a signature consistent with the voter's registration form. The bill authorizes signature verification by electronic device or human inspection. [*Note:* These provisions are present in continuing law for advance voting ballots.]

Poll book. In election definitions of general application, the bill amends the definition of "registration book" to require each page of the book to contain a specified declaration regarding voter identity and compliance with election laws. The bill adds a definition of "abstract" to mean a list of election results for a particular precinct or district with the total votes for each candidate and for or against each constitutional amendment or question submitted.

Provisional partisan primary ballots. In law regarding the original canvass of elections, the bill requires canvassers to count votes for those offices or issues for which an unaffiliated voter may cast a vote if a registered voter who is unaffiliated with a political party has cast a provisional partisan ballot in a primary election.

Poll agents. The bill authorizes an authorized poll agent to be present and observe the proceedings at all recounts and post-election audits.

Post-election audits. In law regarding post-election audits, the bill specifies that one constitutional amendment question, if any, must be audited.

Recounts. In law regarding recount procedures, the bill:

- Authorizes, if the recount is regarding a constitutional amendment, any registered elector who cast a ballot for a constitutional amendment to request a recount in one or more counties;
- Changes the deadline for filing a request for a recount with the Secretary from the second Friday following the election to the day following the last meeting of the county board of canvassers applicable to the election for which the recount is requested;

- Requires a person requesting a recount, who must file a bond to pay costs of the recount, to file that bond contemporaneously with a request for a recount; and

- Specifies that no bond is required for a recount when the election returns find a candidate was defeated by no more than 0.5 percent of the votes.

Open primaries. The bill requires each political party entitled to nominate candidates by primary election to notify the Secretary in writing on or before January 15 of any year in which a partisan general election is to be held whether voters who are unaffiliated with that party may vote in the party's primary election.

Qualifications for Office

County election officer. The bill prohibits anyone convicted of an election-related crime described in Chapter 25, Elections, of the *Kansas Statutes Annotated*, or a crime substantially the same in any other jurisdiction, from serving as a county election officer.

The bill authorizes filling a vacancy in the office of county clerk by appointment of a qualified elector of the state, replacing a requirement that the qualified elector live in the county at the time of appointment. [*Note:* Continuing law requires the Governor to appoint the person elected at a district convention of precinct committeemen and precinct committeewomen.]

Sheriff. In law regarding the appointment of a sheriff as a result of a vacancy, the bill requires any individual appointed to the office of sheriff to be a qualified elector of the county on the day the individual is sworn in as sheriff.

School and community college boards. In the School Election Act and the Community College Election Act, the bill requires a candidate whose name is inserted on the ballot by the voter to be a qualified elector residing in the district.

Adjusting Election-related Dates and Deadlines

The bill amends several election-related dates. [*Note:* Generally, these amendments remove conflicts with advance voting statutes and allow ballots to conform with a requirement in the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) to transmit absentee ballots to UOCAVA voters no later than 45 days before an election.]

Election dates. In law regarding municipal elections required for the issuance of bonds, the bill requires the election to be held within 60 days, rather than 45 days, after compliance with other legal requirements. [*Note:* The statute provides exceptions for irrigation districts or when another procedure is specified.]

In law applicable to an election in a city of the third class regarding whether to sell any municipally owned utility, the bill requires the election to be held within 60 days, rather than 40 days, of the passage of the ordinance.

Notifications regarding candidates. In general election law, the bill changes the deadline by which the county election officer must notify each person nominated for public office from 25 days to 50 days prior to the general election.

The bill also moves from 2 weeks to 50 days before a primary election the deadline by which the county election officer must send a list of candidates to each candidate, and it adds a requirement that the list also be sent to the chairpersons of the political parties of the county. The bill requires the list to include the office, the candidate's name, the city where the candidate resides, and the candidate's political party, as that information will appear on the primary election ballot. The bill authorizes a candidate, as well as the party chairperson, to suggest changes regarding the list to the county election officer, and it changes the deadline for those suggestions from on or before the 11th day before the election to on or before 45th day.

Candidacy deadlines. In the State Board of Education Election Act, the bill changes the deadline for filing a petition or declaration of intention by noon on June 1, the deadline for filing for other offices, rather than June 10.

Initiating a proceeding. The bill changes from 45 days to 60 days before the election the deadline to commence a mandamus or injunction proceeding to compel an election officer to or restrain an officer from placing a name on a ballot.

Establishing precinct boundaries. In law regarding precinct boundaries, the bill requires precinct boundaries to be reestablished the sooner of June 1, replacing June 10, or 45 days after the Legislature has been redistricted in a year ending in "2."

Require Website Notices

The bill requires election-related notices to be published on the county election office website, in addition to publication in newspapers as in continuing law, as specified below.

Notices of upcoming elections. The bill requires notice of the election to be published on the county election website at least 21 days before the election and remain until the day after the election for municipal bond elections and for elections in a city of the third class on whether to sell a utility owned by the city.

The bill requires an appointed election commissioner to give notice of an upcoming election on the website of the county election office of any county where the election is to be conducted, as well as in the official county newspaper, at least 15 days before the election.

The bill requires the county election officer to publish notice of any general election on the county election office website at least 30 days before the election and remain on the website until the day after the election. The bill requires notice in one or more newspapers to be published at least 30 days, rather than 15 days as in current law, before the general election.

In the School Election Act, the bill requires notice of the primary election to be published on the website of the county election office of any county where the election is to be conducted, from June 10 until the day after the election. The bill also requires notice of the general election to be published on the website of the county election office at least 21 days before the election and remain on the website until the day after the election.

In law authorizing the county election officer to establish or divide a township precinct, the bill requires notice of the election to be published on the website of the county election office.

Voter registration. The bill requires notice of the places and dates for voter registration for each election to be published on the website of the county election office and remain on the website until the day after registration closes.

Canvass. The bill requires notice of the original canvass of every election to be published on the website of the county election office.

Election of Precinct Committeemen and Precinct Committeewomen

Eligibility. The bill requires the county election officer to verify the party affiliation of the candidate when a declaration of intention is filed to become a candidate for precinct committeeman or committeewoman.

Continuing law requires a person elected to the office of precinct committeeman or precinct committeewoman if no nomination petitions or declarations have been filed to receive at least five write-in votes. The bill adds the requirements that the person live in the precinct, be a qualified elector, and be a member of such party as shown by the party affiliation list maintained in the county election office.

The bill prohibits a candidate for precinct committeeman or committeewoman from filing a declaration of intention to be a candidate unless that person lives in the precinct.

Term of office. The bill specifies each precinct committeeman and committeewoman will assume the duties of those offices on the day after the primary election and will not be required to take an oath required of all officers elected or appointed under Kansas law before beginning their duties.

Contact information. The bill requires the county election officer to send to the Secretary, within seven days after each primary election in even-numbered years, a list of those who hold the office of precinct committeeman or committeewoman and to notify the Secretary of any updates. The bill requires the county chairperson to notify the county election officer of the name, address, email address (if available), and a phone number or phone numbers (including a mobile phone number, if available) of each elected or appointed precinct committeeman or committeewoman and to report any changes in that information to the county election officer within ten days after the change. The bill requires the Secretary to keep an updated list of all precinct committeepersons and their contact information.

Election Crime

The bill amends the definition of electronic or electromechanical voting system or electronic poll book fraud to add accessing without authorization or facilitating unauthorized access to voting system equipment, electronic poll book equipment, computer programs, operating systems, firmware, software, or ballots, and knowingly publishing or causing to be published any password or other confidential information relating to voting system equipment, electronic poll book equipment, computer programs operating systems, firmware, or software.

The bill amends the definition of optical scanning equipment fraud to add accessing without authorization or facilitating the unauthorized access to optical scanning equipment, and knowingly publishing or causing to be published any password or other confidential information relating to optical scanning equipment.

Election Equipment

Only for elections conducted in counties that do not use tabulators or optical scanners to count votes, the bill requires:

- The use of separate ballot boxes for various types of elections;
- Ballot boxes to be opened, emptied, and relocked at the time a voting place is opened; and
- A ballot to be folded and the number clipped in the presence of the voter and the election board.

The bill clarifies any voting equipment, as well as facility ballots and voting records and materials as in continuing law, used at a nursing facility, assisted living facility, or hospital-based long-term care unit must be returned to the county election officer.

Additional Provisions

Election commissioner. In law regarding when an election commissioner is appointed by the Secretary, the bill specifies how the Secretary determines the population of a county has exceeded 125,000, the threshold for such appointment, which the bill reduces from 130,000 in current law. The bill similarly amends a related statute transferring election-related duties from county clerks and other municipal officers to the appointed election commissioner.

The bill adds a requirement that the Secretary, in consultation with the chairperson of the board of county commissioners for the county where an election commissioner is to be appointed, form a search committee to identify, interview, and recommend to the Secretary at least three candidates for the position of election commissioner. Members of the search committee shall include:

- The chairperson of the board of county commissioners or a county commissioner as designated by the chairperson;
- A representative of the county's human resources department; and
- Three representatives of the Office of the Secretary.

The bill requires any individual appointed to the position of election commissioner to be a Kansas resident for at least two years prior to appointment and be a resident of the county on the day such election commissioner files the oath of office.

Audits and reports. In a statute regarding elections in a city of the third class; unified school district (except a district with at least 35,000 students); any community college, township, or county office; or a question submitted, the bill removes a requirement for an annual audit of the accounts of the state committee of each political party.

The bill requires the treasurer of a party committee or political committee to file a report of contributions during regular business hours if the report is delivered by hand or express delivery service.

Definitions of general, primary, and special elections. In law applicable to advance voting and in election definitions of general applicability, the bill adds a definition of "special election" and clarifies the definitions of "general election" and "primary election." The bill defines a special election as one that is not a general or primary election, including, but not limited to, any mail ballot election. The definition specifies that a special election may not be held within 45 days of a general or primary election but may be held on the same day as a general or primary election. The bill makes conforming amendments to an additional statute.

Petition signer address. The bill requires each signer of a nomination petition for Governor and Lieutenant Governor to provide the street and number, if any, of the signer's residence. Current law requires the street and number to be provided only if the signer's residence is in a city.

Recall. In law addressing recall of a local official, the bill specifies the appropriate attorney must determine the sufficiency of the grounds stated in the petition for recall within five business days, rather than within five days as in current law.

Other. The bill removes a requirement that an application for an advance ballot transmitted to the voter in person be transmitted in the office of the county election officer.

The bill removes a provision allowing voters present to select election judges and clerks if none are present for more than an hour after notice to the county election officer.

Technical Amendments

The bill makes technical amendments to standardize terms, remove outdated language, remove references to provisions no longer in law, eliminate a redundant provision, update federal citations, and standardize references, correct errors, and update terms. The bill also repeals a statute requiring certain types of corporations (generally, utilities, financial institutions, and railroads) to comply with the Campaign Finance Act.

Elections—Presidential Preference Primary; Senate Sub. for HB 2053

Senate Sub. for HB 2053 amends election law to provide for a presidential preference primary to be held on March 19, 2024, and would establish voter registration and voting procedures for such election.

2024 Presidential Preference Primary Election

The bill requires, on March 19, 2024, each political party that is a recognized political party participating in primary elections in accordance with current law to hold a presidential preference primary election for the purpose of electing the preferred nominee of the political party for the office of President and Vice President of the United States. [*Note:* This requirement does not apply to any political party whose candidate for Governor did not poll at least 5.0 percent of the total vote cast for all candidates for Governor in the preceding general election.]

The bill authorizes any political party to submit written notice to the Secretary of State (Secretary) on or before December 1, 2023, that such political party has elected to not participate in the presidential preference primary election.

Candidate for a Political Party Nomination

The bill requires a candidate for a political party nomination for President of the United States to file the appropriate registration information with the Federal Election Commission (FEC) to become a candidate for President. The bill also requires a candidate for a political party's presidential nomination to file one of the following with the Secretary no later than 12:00 noon on the date that is 60 days prior to the date of the presidential preference primary:

- A declaration of intent to become a candidate filed by the candidate and accompanied by a fee of $10,000 (replacing a $100 fee in current law); or

- A petition in the form prescribed by continuing law, signed by not less than 5,000 registered electors, who are affiliated with the political party of such candidate as shown by the party affiliation list. The Secretary would determine the sufficiency of each petition, and the determination would be final.

The bill states all fees received by the Secretary pursuant to this section would be remitted to the State Treasurer and deposited in the State Treasury to the credit of the State General Fund (SGF).

Election Procedures

Advance Voting

The bill requires advance voting ballot applications to be filed between January 1 of the year in which a presidential preference primary election is held and 30 days prior to the day of such election.

The bill requires advance voting ballots for the presidential preference primary to be delivered to the county board of canvassers by:

- 12:00 noon on the day preceding the election for advance voting ballots transmitted in person; and

- The close of polls on the date of the election for advance voting ballots transmitted by mail.

An advance voting ballot will not be counted if not received by the county election officer or any polling place after the closing time of the polls on the date of the election.

Voter Registration

The bill requires county election officers to provide for the registration of voters at one or more places on all days except the 30 days preceding the day of any presidential preference primary election. [*Note:* Under continuing law, registration is also closed when main offices of county government are closed and 20 days preceding a primary, general, or other election.]

The bill also requires county election officers to accept and process applications received by voter registration agencies and the Division of Vehicles, Department of Revenue, no later than the 31st day preceding the date of the presidential preference primary election or mailed voter registration applications that are postmarked no later than the 31st day preceding the presidential preference primary election except, if the postmark is illegible or missing, mailed voter registration applications received in the mail no later than the 19th day preceding the day of such election would be accepted and processed.

Audit

The bill requires an audit to be performed manually and review all paper ballots after a presidential preference primary election and prior to the meeting of the county board of canvassers. [*Note:* The audit would be conducted in accordance with continuing law.]

Notice

The bill requires notice of the presidential preference primary election to be published on the Secretary's website and the website of each county election office no less than 31 days prior to the presidential preference primary election. [*Note:* Continuing law requires the Secretary to publish notice in one newspaper in each county of the state where a newspaper is published.]

After publishing notice, the Secretary is required to certify the amount of moneys expended on publication and transmit a copy of the certification to the Director of Accounts and Reports. Upon receipt of certification, the Director of Accounts and Reports will transfer an amount of money equal to the certified amounts from the SGF to the Information Services Fee Fund of the Secretary and transmit a notification of the transfer to the Directors of the Budget and Legislative Research.

Board of Canvassers

The bill requires the county board of canvassers of each county to meet no later than eight days after a presidential preference primary election is held and canvass the vote of the preference primary. The county board of canvassers will prepare an abstract of the vote in such county and transmit the abstract to the Secretary by use of secure email transmission or other means approved by the Secretary no later than the tenth day after the day of the election.

The bill requires the Secretary to publish in the *Kansas Register* a certified statement of the candidates for President for each party and the number of votes each received on a statewide basis and for each congressional district as determined by the State Board of Canvassers. The Secretary will also be required to publish the report on the Secretary's website.

The bill requires the State Board of Canvassers to meet on or before April 12, 2024, for any presidential preference primary election held in 2024.

Political Party Rules and National Party Convention Delegates

The bill makes a conforming amendment to remove language referring to the selection of delegates for national party conventions.

The bill requires the party rules regarding selection of delegates and alternates to a national party convention be adopted by the committees of the political parties to be published on the Secretary's website.

FEDERAL AND STATE AFFAIRS

Concealed Carry License Fees; House Sub. for SB 116

House Sub. for SB 116 amends the Personal and Family Protection Act to remove certain fees paid by persons who have applied for a concealed carry license (CCL) or who are seeking renewal of such license, specifying no such fees must be paid except to cover the cost of taking fingerprints.

Issuance of a Concealed Carry License

- The bill reduces CCL issuance fees. The bill removes a $100 fee payable to the Attorney General. The bill does not remove a fee in the amount of $32.50, payable to the sheriff of the county where the applicant resides, which the bill specifies is for the cost of covering the taking of fingerprints as required by continuing law.

Concealed Carry License Card

The bill also removes a $16 fee paid to the Kansas Department of Revenue for issuance and renewal of the CCL card.

Concealed Carry License Renewal

The bill removes a $25 license renewal fee and the late fee of $15 for the failure to renew the CCL on or before the expiration date.

Energy Independence in the United States; SCR 1603

SCR 1603 urges the President of the United States to:

- Reject unscientific environmental mandates that restrict domestic energy production and raise costs for American families;

- Consider current geopolitical tensions and support policies that ensure America's long-term energy affordability, security, leadership, and progress, including actions to increase investment in domestic refineries and natural gas production;

- Expand domestic energy production and ensure energy reliability and affordability for consumers by cutting through the red tape purposefully hampering the building of energy infrastructure, especially pipelines;

- Reevaluate energy policies that have curtailed domestic production of oil and natural gas; and

- Utilize our nation's abundant natural resources and relationships with energy-producing allies as leverage against a Russian regime that is intent on disrupting world peace and threatening global stability.

The resolution requires the Secretary of State to send enrolled copies of the resolution to President Biden and to specified legislators.

Donor Intent Protection Act; Senate Sub. for HB 2170

Senate Sub. for HB 2170 creates the Donor Intent Protection Act, which provides legal recourse to an individual charitable donor when the donor's gift restrictions are not followed by the recipient charitable organization.

Purpose

The bill states that its purpose is to provide legal recourse to an individual charitable donor. The bill states recourse is available when, pursuant to an endowment agreement, the donor's gift restrictions are not followed.

The bill requires the recipient to be a charitable organization governing an endowment fund that must contain only property gifted by that single, individual donor.

Definitions

The bill defines terms as follows:

- "Charitable organization" means an organization organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, educational, or other specified purposes that is exempt from federal income taxation as a 501(c)(3) entity under the Federal Internal Revenue Code and maintains its principal office in Kansas;

- "Donor" means an individual who has made a gift of property to an existing endowment fund of a charitable organization or that establishes a new endowment fund of the charitable organization pursuant to terms of an endowment agreement that may include donor-imposed restrictions or conditions governing the use of the gifted endowment property or funds;

- "Donor-imposed restriction" means a written statement within an endowment agreement that specifies obligations on the management or purpose of the property gifted by the donor of the gift as a condition of the charitable organization's receipt of property pursuant to an endowment agreement;

- "Endowment agreement" means an agreement between a donor and a charitable organization that gifts an endowment fund to a charitable organization or gifts property to an endowment fund of a charitable organization and the donor is the only donor gifting such endowment fund or gifting property to such endowment fund;

- An “endowment agreement” may include donor-imposed restrictions or conditions governing the use of the gifted endowment property or fund;

- “Endowment fund” means an institutional fund that, under the terms of an endowment agreement, is not wholly expendable by the charitable institution on a current basis and contains only property gifted by a single donor. An endowment fund will not include assets that the charitable institution designates as an endowment fund for its own use;

- “Legal representative” means the administrator or executor of a person’s estate; a supervising spouse if a court judgment has settled the accounts of the estate; or a living, named person designated in an endowment agreement to act in place of a party to the agreement for all matters expressed in such endowment agreement and all of the actions such endowment agreement contemplates, including, but not limited to, interpreting, performing, and enforcing such endowment agreement and defending its validity; and

- “Property” means real or personal property or money, cryptocurrency, stocks, bonds, or any other asset or financial instrument.

Violations of Donor-imposed Restriction and Recourse

Except when specifically required or authorized by federal or state law, including the Uniform Prudent Management of Institutional Funds Act (UPMIFA), the bill specifies that no charitable organization that accepts a contribution of property of an endowment fund or to an endowment fund pursuant to an endowment agreement that imposes a written donor-imposed restriction may violate the terms of that restriction.

Under the bill, if the donor-imposed restriction is violated, the donor or the donor’s legal representative may file a complaint within two years after discovery of the breach of agreement, but not more than 40 years after the date of the endowment agreement that established the endowment fund. The complaint may be filed in a district court in the Kansas county where the charitable organization has its principal office or place of carrying out its charitable purpose, or in the county of residence of the donor. The bill allows the complaint to be filed regardless of whether the endowment agreement expressly reserves a right to sue or right of enforcement. A complaint filed under the bill may not seek, or result in a judgment awarding damages to the plaintiff.

If a court determines that a charitable organization violated a donor-imposed restriction, the bill allows the court to order any remedy in law or equity that is consistent with and restores, to the extent possible, the donor’s intent as expressed by the donor-imposed restrictions and conditions in the endowment agreement.

The bill states the remedies section shall not affect or conflict with the violation section. Remedies include, but will not be limited to:

- Future compliance with or performance of donor-imposed restrictions or conditions on the use or expenditure of the gifted endowment property;

- Restitution or restoration by the charitable organization of property to an endowment fund that have been expended or used by the charitable organization in contravention of donor-imposed restrictions;

- An accounting or the imposition of accounting requirements;

- Restoration or a change to a name required by the donor-imposed restrictions;

- Measures to preserve the property and value of the endowment fund;

- Modification or release of a donor-imposed restriction or reformation or dissolution of the endowment agreement as permitted by Kansas law;

- Transfer of property from the endowment fund to another charitable organization as directed by the donor, but only if the transfer would not jeopardize or be inconsistent with the tax-exempt status of the original charitable organization.

The bill does authorize the court to order the return of donated funds to the donor or the donor's legal representative or estate.

Judicial Declaration of Rights and Duties

For an endowment agreement containing donor-imposed restrictions, the bill allows a charitable organization to obtain a judicial declaration of rights and duties as to all of the actions the endowment agreement contemplates, including, but not limited to:

- The interpretation, performance, and enforcement of the agreement; and
- Determination of its validity, as provided in UPMIFA.

The charitable organization may also seek such declaration in any suit brought under the bill.

Non-Retroactivity

The bill states its provisions shall not apply to a modification or release of a donor restriction or purpose ordered or made pursuant to UPMIFA, prior to July 1, 2023, or to any appeal of any such release or modification that is pending on or after July 1, 2023.

The bill further states nothing in the bill affects the authority of the Attorney General to enforce any restriction in an endowment agreement, limits the application of the judicial power of *cy pres*, or alters the right of an institution to modify a restriction on the management, investment, purpose, or use of an endowment fund in a manner permitted by the endowment agreement. [*Note*: *Cy pres* is a legal term meaning, "The equitable doctrine under which a court reforms a written instrument with a gift to charity as closely to the donor's intention as possible, so that the gift does not fail."]

FINANCIAL INSTITUTIONS

Kansas Financial Institutions Information Security Act; SB 44

SB 44 enacts the Kansas Financial Institutions Information Security Act (Act). The bill designates covered entities, defines terms, outlines requirements for covered entities, and provides for responsibilities of the State Bank Commissioner under the Act.

Covered Entities

The Act applies to the handling of customer information by the following covered entities:

- Credit services organizations;
- Mortgage companies;
- Supervised lenders (*e.g.*, persons authorized to make a consumer loan under the Uniform Consumer Credit Code);
- Financial institutions engaging in money transmission;
- Trust companies; and
- Technology-enabled fiduciary financial institutions.

Definitions

The bill defines terms:

- "Commissioner" means the State Bank Commissioner or the Commissioner's designee;
- "Covered entity" means each person, applicant, registrant, or licensee subject to regulation by the Office of the State Bank Commissioner that is not directly regulated by a federal banking agency; and
- "Customer information" means any record containing nonpublic personal information about a customer of a covered entity, whether in paper, electronic, or other form, that is handled or maintained by or on behalf of the covered entity or its affiliates.

Covered Entity Requirements

The bill requires a covered entity to:

- Set forth standards for developing, implementing, and maintaining reasonable safeguards to protect the security, confidentiality, and integrity of customer information pursuant to the federal Standards for Safeguarding Consumer Information (16 CFR Part 314);
- Develop and organize its information security system into one or more readily accessible parts; and
- Maintain the program as part of the covered entity's books and records in accordance with its record retention requirements.

Responsibilities of the State Bank Commissioner

The Act will be implemented, administered, and enforced by the Commissioner.

Under the Act, the Commissioner may conduct routine examinations of the operations of a covered entity or investigations of its operations if the Commissioner has reason to believe the covered entity has been engaged or is engaging in any conduct in violation of the Act.

In conducting an investigation or examination or while enforcing the Act, the Commissioner may:

- Issue subpoenas or seek their enforcement in a court of competent jurisdiction;
- Assess fines or civil penalties on a covered entity not to exceed $5,000 per violation and assess costs of the investigation, examination, or enforcement activity;
- Censure a covered entity if it is registered or licensed;
- Enter into a memorandum of understanding or consent order with a covered entity;
- Issue a summary order to a covered entity;
- Revoke, suspend, or refuse to renew the registration or licensure of a covered entity;
- Order a covered entity to cease and desist from engaging in any conduct in violation of the Act or file an injunction to prohibit the covered entity from continuing such conduct; or
- Issue emergency orders if necessary to prevent harm to consumers.

Any enforcement action required or requested under the Act must be conducted in accordance with the Kansas Administrative Procedure Act and is subject to review in accordance with the Kansas Judicial Review Act.

GAMING

Gaming Compacts—Sports Wagering Outside the Boundaries of Indian Lands; Senate Sub. for HB 2058

Senate Sub. for HB 2058 amends law to authorize any gaming compact concerning sports wagering to include provisions governing sports wagering outside the boundaries of Indian lands.

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

HEALTH

Hospital Assessment Exemption; Hospital District Board; House Sub. for SB 42

House Sub. for SB 42 exempts a rural emergency hospital licensed under the Rural Emergency Hospital Act from an assessment imposed on hospital providers as part of the Health Care Access Improvement Program.

The bill also requires members of a hospital board to be qualified electors of either the county where the hospital is located or any county adjacent to such county and require a member living in an adjacent county to own real property within the taxing district of the hospital. The bill requires a majority of the members of the hospital board to be residents of the county in which the hospital is located.

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

Women's Bill of Rights; Biological Sex Definition; Standard of Judicial Review; SB 180

SB 180 establishes the Women's Bill of Rights and provides a definition of biological sex for purposes of statutory construction. The bill sets intermediate constitutional scrutiny as the standard of judicial review to be applied with regard to laws and rules and regulations that distinguish between the sexes and identifies those areas where distinctions between the sexes are related to important governmental objectives. The bill also requires certain entities that collect vital statistics for the purposes outlined in the bill to identify each individual who is part of the collected data set as either male or female at birth. The bill includes that individuals born with a medically verifiable diagnosis of disorder/differences in sex development are to be provided available federal and state legal protections.

Defined Terms

The bill provides that, despite any provision of state law to the contrary, the following apply with respect to the application of an individual's biological sex pursuant to any state laws or rules and regulations:

- An individual's "sex" means an individual's sex at birth, either male or female;
- A "female" means an individual whose biological reproductive system is developed to produce ova;
- A "male" means an individual whose biological reproductive system is developed to fertilize the ova of a female;
- "Woman" and "girl" refer to human females, and "man" and "boy" refer to human males;
- "Mother" means a parent of the female sex, and "father" means a parent of the male sex; and

- With respect to biological sex, separate accommodations are not inherently unequal.

Standard of Judicial Review

The bill notes that laws and rules and regulations that distinguish between the sexes are subject to intermediate constitutional scrutiny. The bill states intermediate constitutional scrutiny prohibits unfair discrimination against similarly situated male and female individuals but allows the law to distinguish between the sexes where such distinctions are substantially related to important governmental objectives.

The bill requires and states that, despite any provision of state law to the contrary, distinctions between the sexes be considered substantially related to the important governmental objectives of protecting the health, safety, and privacy of individuals, with respect to the following areas:

- Athletics;
- Prisons or other detention facilities;
- Domestic violence centers;
- Rape crisis centers;
- Locker rooms;
- Restrooms; and
- Other areas where biology, safety, or privacy are implicated that result in separate accommodations.

Vital Statistics Collection

The bill requires any school district, or public school, and any state agency, department, or office or political subdivision to identify each individual as either male or female at birth who is part of collected vital statistics data sets for the purpose of complying with anti-discrimination laws or gathering accurate public health, crime, economic, or other data.

Court-Ordered Infectious Disease Testing; HB 2015

HB 2015 modifies the law governing court-ordered infectious disease testing.

Current law allows the head of an agency or head of an entity that employs certain persons to petition a court to apply for a court-ordered infectious disease test of another person when an employee is exposed to the transmission of bodily fluids of another person during the course of their work. Employees within the scope of this law include corrections officers, emergency services staff, juvenile correctional facility staff, and law enforcement employees.

The bill allows a designee of the head of an agency or head of an entity to apply for such court-ordered testing.

HOUSING

Kansas Reinvestment Housing Incentive District Act; Amendments to the Kansas Housing Investor Tax Credit Act; SB 17

SB 17 updates the designation of and references to the Kansas Rural Housing Incentive District Act to the Kansas Reinvestment Housing Incentive District Act and creates certain housing projects criteria in designated cities with a population of 60,000 or more, amends the Act to expand the list of costs that could be paid for by proceeds of special obligation bonds, and amends the Kansas Housing Investor Tax Credit Act (HITCA) to expand the transferability of tax credits that would be issued under that act.

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

Reinvestment Housing Incentive Districts

The bill updates the designation of and references to the Kansas Rural Housing Incentive District Act to the Kansas Reinvestment Housing Incentive District Act (Act). [*Note:* Enacted in 1998, the Kansas Rural Housing Incentive District Act was established with a purpose of encouraging the development and renovation of housing in rural cities and counties by authorizing these entities to assist directly in the financing of public improvements that support housing in rural areas of Kansas that experience a shortage of housing.]

Project Criteria for Certain Cities

Under the bill, cities establishing a Reinvestment Housing Incentive District (RHID) will not be able to, within the district:

- Designate more than 100 units as for-sale units in one year;
- Designate more than 100 units as for-rent units in one year;
- Designate more than 50 units associated with a single project as for-sale units within one year; or
- Designate more than 50 units associated with a single project as for-rent units within one year.

For-sale units not sold within six months after the certificate of occupancy is granted will be eligible to be redesignated as for-rent units. The bill also indicates that the governing body will be able to designate for-sale and for-rent units for succeeding years as part of a proposed multi-phased, multi-year development plan.

The bill requires the average size of each residence constructed per project within a RHID to be no larger than 1,650 square feet, excluding any garage or other exterior area, such as a porch, patio, or unattached storage building.

The bill makes these new requirements a part of and supplemental to the Act.

Definitions. The meaning of "city" for these projects is any city with a population of 60,000 or more, as certified by the Secretary of State to the Director of the Budget, except for the city of Topeka. [*Note:* The city of Topeka is included in requirements under law specific to rural housing incentive districts.]

The bill also modifies within provisions applicable to RHIDs the term "county" to mean any county with a population of less than 85,000, changed from less than 80,000.

Purpose of Act, references. The bill also modifies the purpose of the Act to remove references to "rural" and continue law encouraging the development and renovation of housing in cities and counties in the state. The bill makes additional updates to remove "rural" and update references to "reinvestment."

Use of Special Obligation Bonds, Expansion of Listed Costs

The bill expands the list of costs that may be paid for by proceeds of special obligation bonds, adding renovation or construction of residential dwellings, multi-family units, or buildings or other structures exclusively for residential use located on existing lots if either:

- The infrastructure, including streets, sewer, water, and utilities, has been in existence for at least ten years; or
- The lots on which the residential units are located have been subject to an improvement district tax assessment because the land is located in an improvement district already established by a city or county.

Kansas Housing Incentive Tax Credit Act

The bill amends the HITCA to expand the transferability of tax credits issued under the Act. Among changes addressing transferees, the bill requires transferees, as well as qualified investors, project builders, and developers as in continuing law, to provide information and documentation to claim the tax credit in the form and manner required by the Secretary of Revenue.

Regarding the claiming of a tax credit, the bill also specifies:

- Any portion of the tax credit that is carried forward could be transferred to another taxpayer;
- All or a portion of the tax credit could be transferred by the qualified investor or any subsequent transferees to one or more persons; and
- There is no limit on the number of times a credit or any portion of a credit can be transferred.

The bill also removes a limitation that specified only the full amount of the tax credit for any one investment may be transferred and may be transferred only one time. The bill further

clarifies that the transferee would receive all remaining rights and restrictions for the tax credit being transferred on the date of the transfer.

The bill provides for the calculation of any tax due under provisions in the Insurance Code pertaining to retaliatory taxes (taxes imposed on out-of-state insurance companies); the tax credit will be treated as a tax paid as part of the insurance company's premium tax owed.

[*Note:* Under the HITCA, for tax years 2022 and thereafter, a tax credit could be claimed against Kansas income tax liability, the privilege tax liability imposed upon certain financial institutions, and the premium tax liability imposed upon insurance companies. The tax credit could be claimed by qualified investors and project builders or developers of a qualified housing project.]

INSURANCE

Kansas Travel Insurance Act; Offer of Long-Term Care Insurance and Indemnity Insurance; SB 85

SB 85 enacts the Kansas Travel Insurance Act (Act) as part of the Kansas Insurance Act and removes the requirement that the Kansas State Employees Health Care Commission (Commission) offer as a benefit the option to purchase long-term care insurance and indemnity insurance. The bill addresses the licensure and registration of limited lines travel insurance producers (travel insurance producers) and travel retailers, establishes a premium tax for travel insurers, regulates the sale and marketing of travel insurance and travel protection plans, provides for travel administrators, and establishes standards for travel insurance policies.

The bill also makes technical amendments to ensure consistency in statutory phrasing and remove outdated statutory language.

The Kansas Travel Insurance Act provisions in the bill are effective on and after January 1, 2024, and publication in the statute book.

Purpose and Application (New Section 2)

The purpose of the Act is to promote the public welfare by establishing a comprehensive legal framework within which travel insurance may be sold.

The requirements of the Act apply to travel insurance that covers Kansas residents that is sold, solicited, negotiated, or offered in the state and to policies and certificates delivered or issued for delivery in the state. The Act does not apply to cancellation fee waivers or travel assistance services, except as expressly provided in the Act.

All applicable provisions of the insurance laws of the state apply to travel insurance, but specific provisions of the Act supersede any general provisions of law that apply to travel insurance.

Definitions (New Section 3)

The bill defines terms used in the Act, including:

- "Aggregator site" means a website that provides access to information regarding insurance products for more than one insurer, including product and insurer information, for use in comparison shopping;

- "Blanket travel insurance" means a policy of travel insurance issued by any eligible group providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group;

- "Cancellation fee waiver" means a contractual agreement between a supplier of travel services and its customer to waive some or all of the non-refundable

cancellation fee provisions of the supplier's underlying form of reimbursement. "Cancellation fee waiver" is not considered insurance;

- "Commissioner" means the Commissioner of Insurance;
- "Delivery" means handing fulfillment materials to the policyholder or certificate holder or sending such fulfillment materials to the policyholder or certificate holder using United States mail or electronic means;
- "Eligible group" means two or more persons who are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship. An eligible group includes 13 various groups of similarly situated entities itemized in the bill;
- "Fulfillment materials" mean documentation sent to the purchaser of a travel protection plan that confirms the purchase and provides details of the coverage and assistance of the travel protection plan;
- "Group travel insurance" means travel insurance issued to any eligible group;
- "Limited lines travel insurance producer" means a licensed managing general agent or third party administrator; a licensed insurance producer, including a limited lines producer; or a travel administrator;
- "Offer and disseminate" means providing general information including a description of the coverage and price, as well as processing of the application and collecting premiums;
- "Primary certificate holder" means an individual person who elects and purchases travel insurance under a group policy;
- "Primary policy holder" means an individual person who elects and purchases individual travel insurance;
- "Travel administrator" means a person who directly or indirectly underwrites, collects charges, collateral, or premiums from, or adjusts or settles claims on, Kansas residents in connection with travel insurance. Entities not considered to be travel administrators are as identified in the bill;
- "Travel assistance services" mean non-insurance services for which the customer is not indemnified based on a fortuitous event and where providing the service does not result in transfer or shifting of risk that would constitute the business of insurance. The bill lists non-exclusive examples of travel assistance services;
- "Travel insurance" means insurance coverage for personal risks incidental to planned travel as outlined in the bill. The bill would also clarify that travel insurance does not include major medical plans that provide comprehensive

medical protection for travelers with trips lasting longer than six months, including those working or residing overseas as an expatriate, or any other product that would require a specific insurance producer license;

- "Travel protection plans" mean plans that provide one or more of the following: travel insurance, travel assistance services, or cancellation fee waivers; and

- "Travel retailer" means a business entity that makes, arranges, or offers planned travel and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

Licensure Requirements (New Section 4)

The bill provides for the licensure of limited lines travel insurance producers and the registration of travel retailers that may sell travel insurance under the license of a travel insurance producer. The Commissioner of Insurance (Commissioner) is authorized to issue a limited lines travel insurance producer license to an individual or entity that files with the Commissioner an application for such licensure in a form and manner prescribed by the Commissioner. Such travel insurance producer is licensed to sell, solicit, or negotiate travel insurance through a licensed insurer. The bill requires travel insurance producers or travel insurance retailers to be properly licensed or registered, respectively.

The bill establishes the conditions under which a travel retailer is allowed to offer and disseminate travel insurance under a travel insurance producer business entity license. The conditions include:

- The travel insurance producer or travel retailer provides certain information to purchasers of travel insurance;

- The travel insurance producer establishes a register of each travel retailer that offers travel insurance on the travel insurance producer's behalf and maintains and updates such register, submits the register to the Department upon reasonable request, and certifies the travel retailer complies with federal law pertaining to crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce;

- The travel insurance producer designates one of its employees, who is a licensed individual producer, as a designated responsible producer responsible for compliance with travel insurance laws and regulations applicable to the travel insurance producer and its registrants;

- The designated responsible producer, president, secretary, treasurer, and any other officer or person who directs or controls the travel insurance producer's insurance operations complies with the fingerprinting requirements applicable to insurance producers in such producer's resident state;

- The travel insurance producer has paid all applicable licensing fees required by state law; and

- The travel insurance producer requires each employee and authorized representative of the travel insurance retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which is subject to review and approval at the discretion of the Commissioner. The content of such training material is specified in the bill.

Any travel retailer offering or disseminating travel insurance is required to make available to the prospective purchaser brochures or written materials containing specific information outlined in the bill.

The bill prohibits a travel retailer employee or authorized representative, who is not a licensed insurance producer, from performing certain acts.

Despite any other provision in law, a travel retailer whose insurance-related activities and the activities of the employees and authorized representatives of such travel retailer are limited to offering and disseminating travel insurance on behalf of and under the direction of a travel insurance producer that meets the conditions stated in the Act is authorized to receive related compensation, upon registration by the travel insurance producer.

As the insurer's designee, the travel insurance producer is responsible for the acts of the travel retailer and is authorized to use reasonable means to ensure the travel retailer's compliance with this act.

Premium Tax (New Section 5)

The travel insurer is required to pay premium tax on travel insurance premiums paid by entities identified in the bill. The travel insurer is also required to document the state of residence or principal place of business of each policy holder or certificate holder and report as premium only the amount allowable to travel insurance.

Travel Protection Plan Requirements (New Section 6)

The bill provides that travel protection plans may combine the features such plans offer in the state for one price if:

- Clear disclosure is provided to the consumer at or prior to the time of purchase regarding the content of such plan, and an opportunity is provided to the consumer at or prior to the time of purchase regarding the features and pricing of each plan; and

- The fulfillment materials meet the requirements outlined in the bill.

Sales and Marketing Requirements (New Section 7)

Each person offering travel insurance to Kansas residents is subject to the Unfair Trade Practices Law, except as otherwise provided in this section of the bill. If a conflict arises between the Act and the Kansas Insurance Act regarding the sale and marketing of travel insurance and travel protections plans, the provisions of the Act control. The bill establishes that

offering or selling a travel insurance policy that can never result in payment of any claims for any insured under the policy is an unfair practice under the Unfair Trade Practices Law.

The bill requires each person who offers travel insurance policies or travel protection plans to comply with the following:

- All documents provided to a consumer prior to the purchase of travel insurance must be consistent with the travel insurance policy itself;
- For each travel insurance policy or certificate containing pre-existing condition exclusions, information and an opportunity to learn more about such exclusions must be provided to the consumer prior to the time of purchase and in the coverage's fulfillment materials;
- Fulfillment information and the information required to be provided to purchasers of travel insurance by a travel insurance producer or travel retailer by the bill must be provided to a policy holder or certificate holder as soon as practicable following the purchase of a travel insurance protection plan. Unless the policy holder or certificate holder has started a covered trip or filed a claim under the travel insurance coverage, such policyholder or certificate holder is allowed to cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase until at least:
  - 15 days following the date of delivery of the travel protection plan's fulfillment materials by postal mail; or
  - 10 days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail;
- The company must disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage; and
- Where travel insurance is marketed directly to the consumer through the insurer's website or by others through an aggregator site, it is not an unfair trade practice or other violation of law when an accurate summary or short description of coverage was provided if the consumer has access to the full provisions of the policy through electronic means.

No person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis may do so by using a negative option, or opt out, that requires a consumer to take an affirmative action to deselect coverage. Marketing blanket travel insurance coverage as free is an unfair trade practice.

If the jurisdiction of a consumer's destination requires insurance coverage, it is not an unfair trade practice to require such consumer, as a condition of purchasing a trip or travel package, to choose between purchasing the required coverage through the travel retailer or travel insurance producer supplying the trip or travel package, or the consumer agreeing to obtain and provide proof of coverage that meets the jurisdiction's requirements prior to departure.

Travel Administrator Conditions (New Section 8)

The bill prohibits a person from acting or representing themself as a travel administrator for travel insurance in Kansas unless he or she is a licensed property and casualty insurance producer in Kansas for activities permitted under that producer license or holds a valid managing general agent license or a valid third-party administrator license in Kansas.

The bill requires that an insurer be responsible for the acts of a travel administrator that administers travel insurance underwritten by the insurer and ensure the travel administrator maintains all books and records relevant to the insurer and makes such books and records available to the Commissioner upon request.

Travel Insurance Classification and Filing (New Section 9)

Despite any other Kansas Insurance Act provision, the bill requires travel insurance to be classified and filed for purposes of rates and forms under an inland marine line of insurance. [*Note:* Inland marine insurance covers products being transported over land or temporarily housed by a third party.] Travel insurance may be in the form of an individual, group, or blanket policy. Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, provided those standards also meet Kansas underwriting standards for inland marine insurance.

Rules and Regulations Authority (New Section 10)

The bill authorizes the Commissioner to adopt rules and regulations to implement and enforce the provisions of this act.

Categorization of Travel Insurance (Section 11)

The bill amends the definition of travel insurance, as one of the lines of authority for which an insurance agent may quality for licensure, to add the following personal risks incidental to planned travel that are covered: emergency evacuations, repatriation of remains, or any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the Commissioner.

Kansas State Employees Health Care Commission; Long-term Care and Indemnity Insurance (Section 12)

The bill removes the requirement that the Commission offer as a benefit the option to purchase long-term care insurance and indemnity insurance.

Insurance Statute Reference Updates; Written Demand for Unpaid Premiums; Definition of Person; Risk-based Capital Instructions; Fiscal Soundness for Certificate of Authority; SB 119

SB 119 clarifies the definition of “insurance company,” removes the requirement of a documented written demand from an insurance company for certain unpaid premiums, adds

certain legal entities to the definition of "person," makes the annual update to risk-based capital (RBC) instructions, amends the requirements for demonstration of fiscal soundness to be submitted by a health maintenance organization (HMO) or a Medicare provider organization (MPO) when applying for a certificate of authority, and makes other technical corrections and reconciling changes in the Insurance Code.

Insurance Statute Reference Updates

The bill clarifies the definition of "insurance company" and makes other technical corrections and reconciling changes in the Insurance Code.

Written Demand for Unpaid Premiums by Agent or Broker

The bill removes the requirement of a documented written demand from an insurance company for unpaid premiums by an agent or broker.

Under current law, the failure of an agent or broker to pay premiums owed to an insurer after written demand is made is considered *prima facie* evidence that the agent or broker has used or applied the premium for another purpose. Such failure then subjects the agent or broker to the penalties listed in KSA 40-247(b).

The bill also removes the requirement of the written demand in establishing *prima facie* evidence.

Addition of Certain Legal Entities to Definition of "Person"

The bill adds "and any other legal entity under the jurisdiction of the commissioner" to the definition of "person" in statute pertaining to insurance laws and enforcement. The change allows for entities that are currently under the jurisdiction of the Commissioner of Insurance to be more accurately reflected in statute.

Annual Update of Risk-based Capital Instructions

The bill amends the effective date specified in the Insurance Code for the RBC instructions promulgated by the National Association of Insurance Commissioners (NAIC) for property and casualty companies and for life insurance companies. The instructions currently specified became effective on December 31, 2021. The bill updates the effective date of the RBC instructions to December 31, 2022.

Demonstration of Fiscal Soundness for a Certificate of Authority to Provide Health Care

The bill amends law relating to the financial documentation demonstrating fiscal soundness that must be submitted by a HMO or a MPO when applying for a certificate of authority to provide health care in the state.

The bill amends requirements pertaining to statements of fiscal soundness to:

- Require financial projections for a minimum of three years from the date of application [*Note:* Current law requires the projections for a minimum of three years from the anticipated date of certification and on a monthly basis from the date of certification through one year.];

- Limit the projections for each deficit year and for one year thereafter required when a HMO or MPO expects to incur a deficit to a maximum of five years;

- Eliminate the requirement for monthly statements of revenue and expenses for the first year on a gross dollar and a per-member-per-month basis; and

- Change the required balance sheet for all financial projections from quarterly to yearly.

Insurance Code Amendments—Surplus Lines Premium Tax Rate; Prepaid Service Plans; Setting Certain Fees; HB 2090

HB 2090 makes several changes to the Insurance Code to decrease the premium tax rate assessed for certain surplus lines business, modify reporting and fee requirements relating to prepaid service plans, and amend the Uniform Insurance Agents Licensure Act and the Public Adjusters Licensing Act to allow the Commissioner of Insurance (Commissioner) to set certain fees lower than the established statutory maximum amounts and also amend fingerprinting criteria for resident agents.

Surplus Lines, Premium Tax Rates

The bill amends a provision in the Insurance Code pertaining to the premium tax assessed for surplus lines business that is transacted on behalf of insureds (policyholders) whose home state is Kansas.

Under current law, on March 1 of each year, licensed agents are required to collect and pay to the Commissioner a tax of 6.0 percent on the total gross premiums charged, less any return premiums. The bill amends this rate to 3.0 percent, commencing with the tax year beginning January 1, 2024.

Prepaid Service Plans

The bill modifies requirements for reporting individuals who solicit memberships on behalf of prepaid service plans from semi-annually to annually. The bill also discontinues payment of annual registration fees.

Under current law, each prepaid service plan authorized to do business in the state is required to register each individual who solicits memberships on their behalf, pay an annual registration fee of $2 per individual, and provide a list of those individuals to the Kansas Insurance Department (Department) biannually, on January and July 1 of each year.

The bill:

- Discontinues the annual registration fee of $2 per individual who solicits memberships on behalf of the prepaid service plan;

- Changes the list reporting requirements from a biannual to an annual basis at the time the prepaid service plan files to continue its certificate of registration;

- Includes the amendments to the registration requirements into KSA 40-4209; and

- Repeals the former location of the reporting requirements in KSA 40-4203.

Commissioner of Insurance, Fees Established in Law

The bill amends provisions in the Uniform Insurance Agents Licensure Act and the Public Adjusters Licensing Act to allow the Commissioner to set fees in an amount lower than the maximum amount of the fees established in law. The bill also amends fingerprinting criteria for resident agents.

Resident Agents and Non-resident Agents

Resident agents. Under current law, an applicant for a resident agent license must pay a nonrefundable fee of $30 to the Commissioner. The bill instead requires each applicant to pay the fee in an amount not to exceed $30. The bill requires the Commissioner, no later than December 1, to annually set and publish the application fee for the next calendar year in the *Kansas Register*.

Continuing law permits the Commissioner to use information from an applicant's background check, fingerprinting, and criminal history for the purpose of verifying identification and fitness of the applicant to be issued a license. The bill requires, rather than allows, the Commissioner to use this information in determining whether a license should be issued.

Non-resident agents. Under current law, an applicant for a non-resident agent license must pay a nonrefundable application fee of $30 and a biennial fee of $50. The bill instead requires non-resident agents to pay the respective fees in an amount not to exceed $30 and $50. The bill also requires the Commissioner to annually set and publish this application fee for the next calendar year.

Public Adjusters

Under current law, an applicant for public adjuster licensure must pay an application fee of $100. The bill instead requires the applicants to pay a fee in an amount not to exceed $100. The bill also requires the Commissioner to annually set and publish this application fee for the next calendar year in the *Kansas Register*.

Group-funded Pools Refund Fund, Premium Taxes, COBRA Coverage for Families of Fallen Firefighters; HB 2093

HB 2093 establishes the Group-funded Pools Refund Fund and eliminates assessments paid by municipal group-funded liability pools and group-funded workers' compensation pools, amends provisions pertaining to premium taxes paid by municipal group-funded liability pools and group-funded workers' compensation pools, and amends law requiring certain municipalities to pay for the premiums for the continuation of insurance coverage under COBRA for the surviving spouse and eligible dependent children of a firefighter who dies in the line of duty.

Group-funded Pools Refund Fund

The bill establishes the Group-funded Pools Refund Fund and amends and repeals law to eliminate assessments paid by municipal group-funded liability pools and group-funded workers' compensation pools in order to refund existing balances in two associated fee funds and wind down such funds.

Moneys in the Group-funded Pools Refund Fund may be used only for the purpose of refunding entities that have paid into the Group-funded Pools Fee Fund (pursuant to KSA 12-2623) and the Group-funded Workers' Compensation Fee Fund (pursuant to KSA 44-587).

The bill provides for a July 1, 2023, transfer from the two existing fee funds into the Group-funded Pools Refund Fund. On July 1, 2024, this fund will be abolished.

The bill also makes a technical update to remove reference to the Group-funded Workers' Compensation Pools Fee Fund, which is eliminated by this bill.

Premium Taxes Paid by Group-funded Pools

The bill amends provisions pertaining to premium taxes paid by municipal group-funded liability pools and group-funded workers' compensation pools to change the basis upon which the premium taxes for these pools is calculated.

The bill changes, from fiscal year to calendar year, the basis upon which the 1.0 percent annual premium tax is paid. (Under continuing law, the premium tax is based on the annual gross premium collected by the pool for the preceding year. Payment must made no later than 90 days after the conclusion of each year.)

COBRA Coverage for Families of Fallen Firefighters

The bill amends law requiring certain municipalities to pay for the premiums for the continuation of insurance coverage under COBRA for the surviving spouse and eligible dependent children of a firefighter who dies in the line of duty. The bill adds "fire district" to "city, county, or township" in the definition of "municipality" to allow such districts to be subject to this continuation of coverage requirement. The law requires municipalities opting to provide for the payment of health insurance premiums for its firefighters to pay the premiums for continuation of coverage for 18 months.

Health Care Provider Insurance Availability Act—Amendments; Defined "Healthcare Provider"; Ineligible Facilities; HB 2325

HB 2325 amends the Health Care Provider Insurance Availability Act to add certain maternity centers to the definition of "health care provider" and to add facilities where elective abortions are performed to the list of entities that are not health care providers as defined in the bill, which would make such facilities ineligible to purchase professional liability insurance from the Health Care Stabilization Fund (Fund).

The bill requires a maternity center participating in the Fund (professional liability coverage) to have accreditation by the Commission for Accreditation of Birth Centers and meet the licensure definition for maternity center (KSA 65-503). [*Note:* Under this licensure definition, a "maternity center" is a facility that provides delivery services for normal, uncomplicated pregnancies but does not include a medical care facility, as defined by KSA 65-425.]

The bill also makes technical amendments to reorganize provisions listing professionals and facilities subject to the requirement of participation in the Fund.

The bill requires that facilities where elective abortions are performed would be deemed ineligible to purchase professional liability insurance from the Fund. [*Note:* The statutory reference describing these facilities is assumed to refer to the facilities where elective abortions are performed as listed in Section 1 of the bill.] The facilities would need to maintain continuous professional liability insurance coverage equivalent to that provided by the Fund as a condition of licensure and to submit satisfactory proof of such coverage to the Fund's Board of Governors, which administers the Fund and advises the appropriate licensing and disciplinary authorities regarding the qualifications of health care providers.

Restrictions on Electronic Tracking; Timeframes of Protective Orders; SB 217

SB 217 amends law regarding the use of electronic tracking systems to target a person's location, movement, or travel patterns and the timeframes of protective orders.

Kansas Criminal Code—Crime of Stalking

The bill adds to the definition of "course of conduct" in the crime of stalking the following conduct:

- Utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement, or travel patterns.

Kansas Family Law Code—Permissible Orders After the Filing of a Petition for Divorce, Annulment, or Separate Maintenance Before Action Final

The bill expands permissible orders related to restraining parties with regard to disposition of property and with regard to molesting or interfering with the privacy or rights of each other to specify these orders cover the conduct of utilizing any electronic tracking system or acquiring tracking information to determine the other person's location, movement, or travel patterns.

Kansas Parentage Act—Court Orders

The bill specifies a court's power to make and enforce orders related to restraining parties from molesting or interfering with the privacy or rights of each other to include utilizing any electronic tracking system or acquiring tracking information to determine the other person's location, movement, or travel patterns.

Revised Kansas Code for Care of Children—Temporary Custody Orders, Informal Supervision Restraining Orders, and Prohibitions on Authorized Dispositions of Custody

The bill specifies, for the purposes of sections of law concerning temporary custody orders, informal supervision restraining orders, and prohibitions on authorized dispositions of custody, the terms "harassing or intimidating" and "harass or intimidate" to include, but are not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement, or travel.

Protection From Abuse Act

The bill specifies restraining orders granted under the Protection From Abuse Act to include restraining the defendant from utilizing any electronic tracking system or acquiring tracking information to determine the other person's location, movement, or travel patterns.

Protection from Stalking, Sexual Assault, or Human Trafficking Act

The bill specifies, for the purposes of restraining orders granted under the Protection from Stalking, Sexual Assault, or Human Trafficking Act, the terms "harassing" or "interfering with the privacy rights" to include, but are not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement, or travel patterns.

Timeframes of Protective Orders

The bill amends law governing the timeframes for initial protective orders and related extension periods in the Protection from Abuse Act and the Protection from Stalking, Sexual Assault, or Human Trafficking Act.

Current law allows orders initiated under both acts to remain in effect up to one year, with options to extend such orders for up to one additional year. The bill changes the time period for which initial orders may remain effective to a period of one to two years and changes the time period for extensions of such orders to be effective for an additional one to three years.

The bill also amends a provision in the Protection from Abuse Act requiring the court to extend protective orders for up to the lifetime of the defendant when the court determines a violation has occurred, by lowering the floor of the possible extension period from two additional years to one additional year.

Settlement Agreements Involving a Minor; SB 243

SB 243 creates law concerning requirements and procedures for a person having legal custody of a minor to enter into a settlement agreement without court approval on behalf of the minor when the settlement is less than a net amount of $25,000. The bill also amends law concerning certain dollar amounts referenced in the Kansas Uniform Transfers to Minors Act; the Act for Obtaining a Guardian or a Conservator, or Both; and a statute concerning payments to minor beneficiaries under the Kansas Public Employees Retirement System (KPERS).

Settlement Agreements on Behalf of a Minor

The bill provides that a person having legal custody of a minor may settle or compromise and enter into a settlement agreement with a person against whom the minor has a claim or from whom the minor is to receive proceeds from the sale of real estate, for the settlement of any estate or from any other source if:

- A guardian or conservator has not been appointed for the minor;
- The total amount of the settlement proceeds due to the minor, after reduction from the total settlement amount of all medical expenses, medical liens, all other liens and reasonable attorney fees and costs, is $25,000 or less if paid in cash, by draft or check, by direct deposit, or by the purchase of a premium for an annuity;

- The moneys payable under the settlement agreement will be paid as provided by the bill; and

- The person entering into the settlement agreement on behalf of the minor completes an affidavit or verified statement that attests to certain information.

Affidavit or Verified Statement

The bill requires the person entering into the agreement on behalf of the minor to attest that such person:

- Has made a reasonable inquiry and that, to the best of the person's knowledge, the minor will be fully compensated by the settlement or there is no practical way to obtain additional amounts; and

- Understands and acknowledges that such person is obligated by law to deposit the settlement directly into a restricted savings or investment account or by purchase of an annuity.

The bill requires that if an attorney represents the person entering into the agreement on behalf the minor, such attorney must maintain the affidavit or verified statement in the attorney's file for five years.

Payment of Settlements

The bill describes how proceeds resulting from a settlement agreement are to be payable, as follows.

When Minor is Represented by an Attorney

If the minor or person entering into the settlement agreement on behalf of the minor is represented by an attorney and the settlement is paid in cash, by draft or check, or by direct deposit into the attorney's trust account held for the benefit of the minor, the attorney is required to:

- Timely deposit the moneys received on behalf of the minor directly into a restricted savings or investment account that allows withdrawals from the account only under the certain specified circumstances; or

- Purchase an annuity by direct payment to the issuer of the annuity with the minor designated as the sole beneficiary of the annuity.

When Minor is Not Represented by an Attorney

If the minor or person entering into the settlement agreement on behalf of the minor is not represented by an attorney and the settlement is paid by check, draft, or direct deposit, the minor or person entering into the settlement agreement on behalf of the minor is required to

provide the person or entity with whom the minor has settled the claim with sufficient information to draw a check made payable, or complete an electronic transfer of settlement funds:

- Into a restricted savings or investment account that allows withdrawals from the account only under certain specified circumstances; or

- To purchase an annuity by direct payment to the issuer of the annuity with the minor designated as the sole beneficiary of the annuity.

When Minor is in Custody of the State

If the minor is under the care, custody, and control of the State, the Secretary for Children and Families is required to establish a restricted trust account that earns interest for the benefit of the minor for the purpose of receiving moneys payable to the minor under the settlement agreement.

If the settlement is paid in cash or check, the moneys received on behalf of the minor must be timely deposited into the account described above and notice of the deposit provided to the minor and the person entering into the agreement on the minor's behalf by personal service or first-class mail.

If the settlement is paid by direct deposit, the minor, the person entering into the settlement on behalf of the minor, or the Department for Children and Families is required to provide sufficient information for the purpose of completing an electronic transfer of settlement funds into the account established under the bill. Notice of such deposit must be delivered to the minor and person entering in the agreement on the minor's behalf by personal service or first-class mail.

The bill also allows payment to be made through the purchase of an annuity with the minor designated as the sole beneficiary of the annuity.

Restrictions on Moneys

The bill places restrictions on how the money in the minor's restricted savings, investment, or trust account or subaccount established pursuant to the bill may be used. Under the bill, moneys may not be withdrawn, removed, paid out or transferred to any person, including the minor, except in the following circumstances:

- Pursuant to court order;
- Upon the minor attaining the age of majority or being otherwise emancipated; or
- Upon the minor's death.

The bill states that, upon the minor's or account holder's death, the balance of the account is to be paid to the payable on death beneficiary in accordance with the Kansas Banking Code and, in the absence of a named beneficiary, in accordance with the Kansas Probate Code.

Validity and Effect of Signed Agreement

The bill provides that a signed settlement agreement entered into on behalf of the minor under the bill is binding on the minor without the need for court approval or review, and has the same force and effect as if the minor were a competent adult entering into the agreement.

Such agreement also fully releases all claims of the minor encompassed in the settlement agreement and may be relied on by a financial institution in lieu of a court order when opening a restricted savings or investment account or purchasing an annuity on behalf of a minor.

Release of Liability

The bill specifies that any person or entity that settles with a minor in good faith pursuant to the bill's provisions is not liable to the minor for any claims arising from the settlement of the claim.

The bill also specifies that an insurer who in good faith transfers funds into an account specified by the bill, or purchases an annuity at the direction of the minor or minor's representatives, is not liable to the minor or minor's representatives for any claims arising from the use of such funds after the transfer is completed.

Finally, the bill specifies a financial institution that in good faith opens a restricted account specified by the bill at the direction of the minor or minor's representatives is not liable to the minor or minor's representatives for any claim arising from the use of such funds.

Judicial Intervention

The bill states that nothing in the bill prevents any person acting on behalf of the minor from filing for guardianship, limited guardianship, or conservatorship in district court and requesting such court to approve the settlement on behalf of the minor and oversee the settlement proceeds.

The bill also states that nothing in the bill prevents a minor or minor's representative from requesting a court approve:

- A settlement agreement;
- The affidavit or verified statement required by the bill;
- The terms and disposition of settlement proceeds; or
- Any other matter or agreement related to the settlement agreement.

The bill requires the district court to award any required docket fees associated with such action to the minor or minor's representative.

Maximum Dollar Amounts

The bill increases maximum dollar amounts specified in the Kansas Uniform Transfers to Minors Act and the Act for Obtaining a Guardian or a Conservator, or Both with respect to

moneys in accounts owned by a minor to $25,000. The bill also amends law concerning lump-sum benefits payable to minor beneficiaries under KPERS to increase the maximum dollar amounts specified to $25,000, from $10,000.

Act Against Abusive Website Access Litigation; Senate Sub. for HB 2016

Senate Sub. for HB 2016 enacts the Act Against Abusive Website Access Litigation to create a civil action for determining whether litigation that alleges any website access violation under the federal Americans with Disabilities Act (ADA) or similar law constitutes abusive litigation.

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

Definitions

The bill defines the following terms:

- "Access violation" means any allegation that a public accommodation does not provide sufficient access under:
  - The federal ADA;
  - Chapter 39, 44, or 58 of the *Kansas Statutes Annotated*; or
  - Any similar allegation under state or federal law;
- "Public accommodation" means the same as defined in Title II of the federal Civil Rights Act and, for purposes of this bill, would include a website operated by a resident of Kansas; and
- "Resident of this state" means any person residing in Kansas and any corporation filing with the Office of the Secretary of State.

Legislative Purpose

The bill includes a clause stating the legislative purpose of the bill, recognizing the policy of the state to assure people with disabilities equal opportunities to full access to public accommodations, and allowing the enforcement of that right through litigation if necessary.

The bill states that the Legislature also recognizes that in a small minority of cases, this right is being abused for the primary purpose of obtaining awards of attorney fees for the plaintiff against smaller businesses instead of remedying the alleged website access violation, and, as such, the bill intends to provide a process to curb this type of abusive litigation. The statement also notes that the lack of standards issued by the U.S. Department of Justice (DOJ) concerning website accessibility under the ADA has resulted in the need for this process.

In addition, the statement specifies that the provisions of the bill are not intended to preclude a person with a disability from asserting their right to equal access to a public accommodation under the law either as an individual or as a class through litigation in a Kansas

court brought in good faith to remedy an alleged equal access violation, not for the primary purpose of obtaining an award for attorney fees.

Civil Action for Abusive Litigation Determination

The bill allows a Kansas resident, or the Attorney General on behalf of a class of Kansas residents who is subject to litigation that alleges a website access violation to file a civil action in state court against the initiating party, attorney, or law firm for a determination as to whether such litigation alleging a website access violation is abusive litigation.

The trier of fact is required to consider the totality of the circumstances to determine whether the primary purpose of the challenged litigation is to obtain a payment from a defendant due to the costs of defending the action in court. In making such determination, the trier of fact may assess a number of factors, as described by the bill, and any other factors the trier of fact deems relevant.

Rebuttable Presumptions

The bill establishes a rebuttable presumption that litigation is abusive when there is an initiation or continuance of litigation after the defendant in good faith attempts to cure the alleged violation within 30 days after being provided written notice or being served a petition or complaint with sufficient detail to identify and correct the alleged violation.

There is not a rebuttable presumption that such litigation is abusive if an alleged website access violation is not corrected, as determined by the court, within 90 days after being provided the notice or petition described above. The bill specifies the trier of fact may not determine until after a 90-day period expires or the alleged violation is corrected, whichever occurs first, whether the litigation is abusive.

The bill establishes a rebuttable presumption the litigation is not abusive if a written determination by the Attorney General stating the same is attached to the petition in litigation alleging a website access violation.

Attorney Fees; Judgment

If the trier of fact determines that an abusive litigation has occurred pursuant to the bill, the court has discretion to award reasonable attorney fees and costs related to the defense against the abusive litigation, to be paid by the party bringing the abusive litigation. In addition, the bill authorizes the court to award punitive damages or sanctions not to exceed three times the amount of the attorney fees awarded by the court.

The bill also provides that at the conclusion of any litigation alleging a website access violation, the court is required to review any abusive litigation determination and any award of attorney fees under the Kansas Rules of Professional Conduct to determine the reasonableness of the award before issuing a judgment. The results of the litigation alleging a website access violation are to be weighed heavily, particularly if the litigation was resolved in favor of the plaintiff.

ADA Standards; Sunset

The bill requires, if the DOJ issues standards concerning website accessibility under the ADA, the Attorney General to certify to the Secretary of State that such standards have been issued and for the Secretary of State to publish the notice of this certification in the *Kansas Register*. Upon publication of the certification, the provisions of the bill will expire.

Statute of Limitations—Childhood Sexual Abuse; Senate Sub. for HB 2127

Senate Sub. for HB 2127 permits a criminal prosecution for childhood sexual abuse to be commenced at any time, extends the time to file a civil action for recovery of damages resulting from childhood sexual abuse, and provides exceptions in the Kansas Tort Claims Act (KTCA) for claims arising from such abuse.

Criminal Prosecution (Section 2)

The bill adds the crime of childhood sexual abuse, as defined by the bill, to the list of crimes in which a criminal prosecution may commenced at any time. [*Note:* Continuing law provides that the prosecution for the crimes of rape, aggravated criminal sodomy, murder, terrorism, or illegal use of weapons of mass destruction may be prosecuted at any time.]

For the purposes of the bill, “childhood sexual abuse” means any of the following crimes, as defined by the Kansas Criminal Code, when the victim is under 18 years of age:

- Indecent liberties with a child or aggravated indecent liberties with a child;
- Criminal sodomy;
- Enticement of a child;
- Indecent solicitation of a child or aggravated indecent solicitation of a child;
- Sexual exploitation of a child;
- Aggravated sexual battery;
- Aggravated incest;
- Aggravated human trafficking, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;
- Internet trading in child pornography or aggravated internet trading in child pornography; or
- Commercial sexual exploitation of a child.

Limitations on Civil Actions

The bill amends law governing the limitations on civil actions for recovery of damages suffered as a result of childhood sexual abuse to allow such actions be commenced within the following time frames, whichever occurs later:

- No more than 13 years after the date the victim turns 18 years of age; or
- No more than three years after the date of a criminal conviction for a crime related to childhood sexual abuse, as specified by the bill.

Under current law, such actions may be brought no more than three years after the victim turns 18, or no more than three years after the person discovers or reasonably should have discovered that the injury or illness was caused by childhood sexual abuse.

In addition, the bill clarifies that the damages recovered for childhood sexual abuse include those for illness or injury suffered as a result of such abuse, removes language concerning the discovery of the injury or illness that was caused by childhood sexual abuse to reflect the amendments made by the bill, and makes a technical amendment to remove a reference to actions pending on July 1, 1992.

Kansas Tort Claims Act

Written Notice of Claim Against Municipality

The bill amends law governing the procedure for payment of claims against a municipality to exempt civil childhood sexual abuse claims from the general requirement that persons with claims against a municipality or its employees under the KTCA must provide a written notice of such claims before commencing an action as provided by the section.

Exceptions

The bill amends law governing exceptions from liability under the KTCA for a governmental entity or an employee acting within the scope of the employee's employment to allow claims related to childhood sexual abuse in the following circumstances:

- For injuries resulting from the use of any public property intended or permitted to be used as a park, playground, or open area for recreational purposes, if the employee of the governmental entity commits childhood sexual abuse; and
- For claims arising from providing a juvenile justice program to juvenile offenders, if involving a claim for childhood sexual abuse.

The bill states certain exceptions to liability specified in the KTCA may not be construed to preclude, prohibit, or otherwise limit a claim for damages arising from childhood sexual abuse.

In addition, in determining the question of a governmental entity's negligence, the trier of fact may consider:

- Failure of a governmental entity to adopt or enforce a policy, regulation, or law related to childhood sexual abuse; and
- Failure to exercise reasonable discretion in the supervision of a governmental employee who commits childhood sexual abuse.

Maximum Liability for Claims; Punitive or Exemplary Damages

The bill specifies any claim for recovery of damages against a governmental entity arising from childhood sexual abuse is not subject to provisions in the KTCA limiting liability to $500,000 for claims arising out of a single occurrence. Childhood sexual abuse claims against a governmental entity also are not subject to the general prohibition on punitive or exemplary damages or awards for pre-judgment interest in claims within the scope of the KTCA.

Kansas Probate Code; HB 2130

HB 2130 amends law in the Kansas Probate Code (Code) concerning certain dollar amount limits and thresholds referenced in the Code, transfer-on-death deeds, publication of notice of probate hearings and sales of probate real estate, and filing of wills in court.

Dollar Amount Limits and Thresholds

The bill increases limits on amounts that may be received by a decedent's surviving spouse or children pursuant to the Code under certain circumstances from $5,000 to $10,000, including:

- Payable amount of public or private retirement or annuity plan, Social Security, and Department of Veterans Affairs ("Veterans Administration") benefits;
- Total assets threshold allowing for remission of court costs;
- Demand amount to bypass a required hearing; and
- Amount in controversy for a transfer from a magistrate to a district judge.

The bill increases the two-year transfer amount threshold from $10,000 to $25,000.

The bill also increases the following amounts from $50,000 to $75,000:

- Allowance to spouse and minor children;
- Homestead allowance;
- Small estate cap for personal property; and
- Estate cap for a petition for a refusal of letters of administration.

The bill increases the supplemental elective share amount threshold from $50,000 to $100,000.

Transfer-on-death Deeds

The bill amends law regarding the effect of a transfer-on-death deed to real estate when a grantee beneficiary dies prior to the death of the record owner.

Current law provides, in this situation, the transfer lapses if an alternative grantee beneficiary has not been designated on the deed. The bill amends this provision to apply it only when an alternative grantee beneficiary has not been designated to succeed to the deceased grantee beneficiary's interest and to lapse the transfer only with respect to any such deceased grantee's beneficiary.

The bill also adds an exception to this provision: when the transfer-on-death deed was not made contingent on the grantee beneficiary surviving the record owner, and the deceased grantee beneficiary (beneficiary) leaves at least one then-surviving issue upon the death of the owner when such interest would otherwise have lapsed under the above provision, the interest does not lapse and vests on the record owner's death in the then-surviving issue of the beneficiary on a *per stirpes* basis as successor grantee or grantees. [*Note: Per stirpes* is a legal term meaning "proportionally divided between beneficiaries according to their deceased ancestor's share."]

The bill provides that any judicial proceeding initiated by an interested party to determine the succession of ownership of real estate of a deceased record owner pursuant to the above provisions is subject to the Code to determine descent.

The bill states its amendments apply to deeds filed of record on or after July 1, 2023.

Publication of Notice of Probate Hearings and Probate Sales

Probate Hearings

The bill amends the requirement that the first publication of notice be made within 10 days after the court order setting the time and place of the hearing to require such first publication be made within 30 days after the hearing is set. Continuing law requires such notice to be published once weekly for three consecutive weeks.

The bill also amends the time period requirements for the hearing date to be no earlier than 10 days and no later than 30 days, rather than between 7 and 14 days, after the date of the last publication of notice.

Sale of Probate Real Estate

The bill amends the time period requirements for the sale date to be at least 10 days and not later than 30 days, rather than between 7 and 14 days, after the date of the last publication of notice of the sale.

Filing of Wills in Court

The bill amends law governing the filing of wills in court to allow a copy of a decedent's will, rather than only the will as in current law, to be filed and admitted to probate. An affidavit must be filed as part of this procedure. The bill requires such affidavit filed on or after July 1, 2023, to state whether the original will or a copy of the will is being filed with the court.

Judicial Council; HB 2131

HB 2131 creates law concerning the mission of the Kansas Judicial Council (Council) and amends law related to Council funds.

Judicial Council Mission

The bill provides that the mission of the Council is to study the administration of justice in Kansas and make recommendations for improvements therefor.

Judicial Council Funds

Currently, the Council receives 0.99 percent of docket fees. The bill shifts deposit of docket fees previously credited to the Judicial Council Fund to the State General Fund (SGF). The bill also removes statutory provisions that direct the State Treasurer to credit 0.99 percent of revenues from docket fees to the Judicial Council Fund.

Abolishing the Judicial Council Fund

The bill requires the Director of Accounts and Reports (Director) to transfer all moneys in the Judicial Council Fund to the SGF on July 1, 2023, and subsequently abolish the fund.

Publications Fee Fund Transfer

The bill requires the Director to transfer all publication fees collected by the Council to be deposited in the State Treasury and credited to the SGF. In addition, the bill requires all moneys received as gifts, grants, or donations for the preparation, publication, or distribution of legal publications to be deposited in the State Treasury and credited to the Publications Fee Fund.

Uniform Trust Decanting Act; HB 2172

HB 2172 enacts the Uniform Trust Decanting Act (UTDA) and amends law in the Kansas Uniform Trust Code, Kansas Probate Code, and Kansas Income Tax Act with respect to the statutory rule against perpetuities (RAP), to make the RAP inapplicable in certain circumstances.

UTDA (Sections 2–30)

Definitions (Section 2)

The bill defines various terms used throughout the UTDA. Among the definitions in the bill:“Decanting power” is defined to mean the power of an authorized fiduciary under the UTDA to distribute property of a first trust to one or more second trusts or to modify the terms of the first trust;

- “Authorized fiduciary” means a:
  - Trustee or other fiduciary, other than a settlor, that has discretion to distribute or direct a trustee to distribute part or all of the principal of the first trust to one or more current beneficiaries;
  - Special fiduciary appointed by a court to intervene in the exercise of decanting power pursuant to Section 9 of the bill; or
  - Special-needs fiduciary as defined and described under Section 13 of the bill;
- “Beneficiary” means a person that:
  - Has a present or future, vested or contingent, beneficial interest in a trust;
  - Holds a power of appointment over trust property; or
  - Is an identified charitable organization that will or may receive distributions under the terms of the trust;
- “First trust” means a trust over which an authorized fiduciary may exercise the decanting power;
- “Second trust” means a first trust after modification under the UTDA or trust to which a distribution of property from a first trust is or may be made under UTDA;
- “Terms of the trust” means:
  - The manifestation of the settlor’s intent regarding a trust’s provisions as expressed in the trust instrument or established by other evidence that would be admissible in a judicial proceeding; or
  - The trust’s provisions as established, determined, or amended by a trustee or other person in accordance with applicable law, court order, or nonjudicial settlement agreement;
- “Trust instrument” means a record executed by the settlor to create a trust or by any person to create a second trust that contains some or all of the terms of the trust, including any amendments; and
- “Settlor” means, except as otherwise provided in provisions regarding a second trust settlor in Section 25 of the bill, a person, including a testator, that creates or

contributes property to a trust. If more than one person creates or contributes property to a trust, each person would be a "settlor" of the portion of the trust property attributable to the person's contribution except to the extent another person has power to revoke or withdraw that portion.

Applicability (Sections 3 and 5)

The bill states the UTDA applies to irrevocable express trusts, or express trusts that are only revocable with the consent of the trustee or person holding an adverse interest. The UTDA shall not be applicable to trusts held solely for a charitable purpose.

Additionally, the bill allows a trust instrument to restrict or prohibit exercise of the decanting power.

The bill specifies that the UTDA does not limit the power of a trustee, powerholder, or other person to distribute or appoint property in a further trust or to modify a trust under the instrument, other state laws, common law, a court order, or a nonjudicial settlement agreement. The bill also specifies the UTDA does not affect the ability of a settlor to make provisions in a trust instrument for the distribution of trust property, appointment in further trust of the trust property, or for modification of the trust instrument.

The UTDA applies to any trust created before, on, or after July 1, 2023, that:

- Has its principal place of administration in Kansas, including trusts whose principal place of administration has changed to Kansas; or

- Provides by its trust instrument that it is governed by Kansas law or is governed by Kansas law for the purpose of:
  - Administration, including administration of a trust whose governing law has changed to Kansas;
  - Construction of the terms of the trust; or
  - Determining the meaning or effect of the terms of the trust.

Fiduciary Duties With Respect to Decanting Power (Section 4)

The UTDA requires authorized fiduciaries to exercise decanting power in accordance with their fiduciary duties, including the duty to act in accordance with the purposes of the first trust.

The bill specifies the UTDA does not create or imply a duty to exercise the decanting power or to inform the beneficiaries about the applicability of the UTDA.

The bill further provides, for purposes of the UTDA and certain duties of trustees contained in the Kansas Uniform Trust Code, the terms of the first trust are deemed to include the decanting power, except as otherwise provided in the first-trust instrument.

Reliance on Prior Decanting (Section 6)

The UTDA specifies that a trustee or other person's reliance upon the validity of the decanting of property or a modification of a trust pursuant to the UTDA or other state law would not make such person liable for any action or failure to act as a result of this reliance.

Notice Requirements for Decanting (Section 7)

Under the bill, the notice period for decanting begins when such notice is given under the terms of the UTDA (described below), and ends 59 days after the day notice is given. The bill also states an authorized fiduciary may exercise the decanting power without consent of any person and without court approval, provided other requirements of the UTDA are met.

The UTDA requires notice be given in a record of the intended exercise of the decanting power not later than 60 days before such exercise to certain persons as specified by the bill. Such notice is required to contain certain information related to the manner and reason for the proposed decanting and to include copies of related agreements, instruments, and statements.

The bill does not require notice be provided to persons not known to the fiduciary or who cannot be located after reasonable diligence. Additionally, the bill states an exercise of the decanting power is not ineffective because of failure to give the required notice to one or more persons if the authorized fiduciary acted with reasonable care in providing notice pursuant to the bill.

Before expiration of the notice period, the bill allows exercise of the decanting power if all persons entitled to receive notice waive the period in a signed record.

The bill states receipt of notice, waiver of the notice period, or expiration of the notice period shall not affect the right of persons to seek judicial instruction or approval related to a proposed decanting.

Authority to Represent and Bind (Section 8)

The bill specifies notice provided to a person with the authority to represent and bind another person under a first-trust instrument or the Kansas Uniform Trust Code has the same effect as notice provided directly to such person.

Consent or waiver by the person with the authority described above shall be binding on the person represented unless objected to by such person before the consent or waiver could otherwise become effective.

A person with the above authority may also file an application with a court on behalf of the person represented to inquire whether the decanting power could be exercised in accordance with the UTDA.

The bill also provides that a settlor may not represent or bind a beneficiary under the UTDA.

Authority of the Court to Intervene in the Exercise of Decanting Power (Section 9)

The bill allows certain specified persons to file an application with a court seeking further instruction or approval with respect to an exercise of decanting power and provides the actions a court may take upon such application.

The bill specifies a proceeding to determine whether a proposed or attempted exercise of the decanting power is ineffective may not be commenced by a person entitled to notice under the UTDA or by a beneficiary unless such proceeding is commenced within six months from the day notice is given. Failure to receive a notice will not extend the time by which such proceeding must commence if the authorized fiduciary acted with reasonable diligence to comply with the UTDA.

The bill allows a court in a judicial proceeding involving the decanting of a trust, as justice and equity may require, to award costs and expenses, including reasonable attorney fees, to any party, to be paid by another party, or from the trust that is the subject of the controversy.

Signed Record (Section 10)

The bill requires an exercise of the decanting power to be made in a record signed by an authorized fiduciary. The bill requires the signed record to identify either directly, or by reference, the first trust and the second trust or trusts and state the property of the first trust being distributed to each second trust, and the property, if any, that remains in the first trust.

Decanting Power Of Fiduciary With Expanded Distributive Discretion (Section 11)

The bill defines several terms used in this section, including “noncontingent right,” “presumptive remainder beneficiary,” “successor beneficiary,” and “vested interest.” [*Note:* Some other terms used in this section are defined in Section 2 of the bill, including “current beneficiary,” “expanded distributive discretion,” “power of appointment,” and “powerholder.”]

Under the provisions of the UTDA, an authorized fiduciary that has expanded distributive discretion over the principal of a first trust for the benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

The bill specifies that in an exercise of the decanting power, a second trust could not:

- Include as a current beneficiary a person that is not a current beneficiary of the first trust, except as otherwise provided in the bill;
- Include as a presumptive remainder beneficiary or successor beneficiary a person that is not a current beneficiary, presumptive remainder beneficiary, or successor beneficiary of the first trust, except as otherwise provided in the bill; or
- Reduce or eliminate a vested interest.

The bill further specifies that in an exercise of the decanting power, a second trust may be created or administered under the law of any jurisdiction and such exercise could:

- Retain a power of appointment granted in the first trust;
- Omit a power of appointment granted in the first trust, other than a presently exercisable general power of appointment;
- Create or modify a power of appointment if the powerholder is a current beneficiary of the first trust and the authorized fiduciary has expanded distributive discretion to distribute principal to the beneficiary; and
- Create or modify a power of appointment if the powerholder is a presumptive remainder or successor beneficiary of the first trust, but the exercise of the power may take effect only after the powerholder becomes, or would have become if then living, a current beneficiary.

The bill specifies that a power of appointment may be general or nongeneral and that the class of permissible appointees may be broader than or different from the beneficiaries of the first trust. If an authorized fiduciary has expanded distributed discretion over part, but not all, of the principal of a first trust, the bill allows the fiduciary to exercise the decanting power over that part of principal over which the authorized fiduciary has expanded distributive discretion.

Decanting Power of Fiduciary With Limited Distributive Discretion (Section 12)

The bill defines “limited distributive discretion” to mean discretionary power of distribution that is limited to an ascertainable standard or a reasonably definite standard.

The bill provides that an authorized fiduciary with limited distributive discretion over the principal of the first trust for the benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

The bill allows a second trust to be created or administered under the law of any jurisdiction. Under the bill, second trusts in the aggregate grant each beneficiary of the first trust beneficial interests that are substantially similar to those of the beneficiary in the first trust.

The bill specifies that the power to make a distribution under a second trust for the benefit of an individual beneficiary is substantially similar to a power under the first trust to make a distribution directly to the beneficiary. The bill classifies a distribution as being for the benefit of the beneficiary if the:

- Distribution is applied for the benefit of the beneficiary;
- The beneficiary is under a legal disability or the trustee reasonably believes the beneficiary is incapacitated, and the distribution is made as permitted under the Kansas Uniform Trust Code; or
- Distribution is made as permitted under the terms of the first-trust instrument and the second-trust instrument for the beneficiary’s benefit.

If an authorized fiduciary has limited distributive discretion, the bill allows a fiduciary to exercise the decanting power over the part of the principal that the authorized fiduciary has limited distributive discretion.

Special-needs Trust (Section 13)

Definitions. The bill defines terms related to special-needs trusts, including "beneficiary with a disability" and "governmental benefits." The bill defines a "special-needs trust" to mean a trust the trustee believes would not be considered a resource for the purposes of determining whether a beneficiary with a disability is eligible for governmental benefits.

The bill also defines "special-needs fiduciary" to mean, with respect to a trust that has a beneficiary with a disability, a trustee or other fiduciary, other than a settlor, that has discretion to distribute:

- The principal of a first trust to one or more current beneficiaries; or
- The income of the first trust to one or more current beneficiaries, if no trustee or fiduciary has discretion to distribute part or all of the principal of a first trust.

The term also encompasses a trustee or other fiduciary, other than a settlor, who is required to distribute part or all of the income or principal of the first trust to one or more current beneficiaries, if no trustee or fiduciary has discretion under the above provisions.

Decanting power. The bill allows a special-needs fiduciary to exercise the decanting power over the principal of a first trust as if the fiduciary had the authority to distribute principal to a beneficiary with a disability subject to expanded distributive discretion if:

- A second trust is a special-needs trust that benefits the beneficiary with a disability; and
- The special-needs fiduciary determines that exercise of the decanting power would not be inconsistent with a material purpose of the first trust.

Under the bill, the following rules apply to an exercise of the decanting power:

- Notwithstanding the bill's provisions, the interest in the second trust of a beneficiary with a disability may:
  - Be a pooled trust as defined by federal Medicaid law for the benefit of the beneficiary with a disability; or
  - Contain payback provisions complying with the reimbursement requirements of federal Medicaid law;
- Provisions prohibiting a second trust from reducing or eliminating a vested interest shall not apply to the interests of the beneficiary with a disability; and

- Except as affected by any change to the interests of the beneficiary with a disability, the second trusts in aggregate will be required to grant each other beneficiary of the first trust beneficial interests in the second trusts that are substantially similar to the beneficiary's interests in the first trust.

Special Rules to Protect Charitable Interests (Section 14)

The bill defines the term "determinable charitable interest" to mean a charitable interest that is a right to a mandatory distribution currently, periodically, on the occurrence of a specified event, or after the passage of a specified time, and is unconditional (as defined in the section) or will be held solely for charitable purposes.

If the first trust contains a determinable charitable interest, the UTDA designates the Attorney General as having the rights of a qualified beneficiary and allows them to represent and bind the charitable interest.

If a first trust contains a charitable interest, the bill specifies the second trust or trusts could not:

- Diminish the charitable interest;
- Diminish the interest of an identified charitable organization that holds the charitable interest;
- Alter any charitable purpose stated in the first-trust instrument; or
- Alter any condition or restriction related to the charitable interest.

The bill provides that if there are two or more second trusts, the second trusts would be treated as one trust for purposes of determining whether the exercise of the decanting power diminishes the charitable interest or diminishes the interest of an identified charitable organization for purposes of the bill.

If a first trust contains a determinable charitable interest, the second trust or trusts that include a charitable interest pursuant to the bill will be administered under the laws of Kansas unless the:

- Attorney General consents in a signed record to the second trust or trusts being administered under the law of another jurisdiction; or
- A court approves the exercise of the decanting power.

The UTDA does not limit the powers and duties of the Attorney General under the laws of Kansas other than provided for in the UTDA.

Limitations on Decanting Power (Sections 15–20)

First-trust Instrument Restrictions (Section 15). The bill provides that an authorized fiduciary may not exercise the decanting power, to the extent the first-trust instrument expressly prohibits exercise of:

- The decanting power; or
- A power granted by state law to the fiduciary to distribute part or all of the principal of the trust to another trust or to modify the trust.

The bill also states exercise of the decanting power is subject to any restriction in the first-trust instrument that expressly applies to exercise of:

- The decanting power; or
- A power granted by state law to the fiduciary to distribute part or all of the principal of the trust to another trust or to modify the trust.

The bill provides that a general prohibition of the amendment or revocation of a first trust, a spendthrift clause, or a clause restraining the voluntary or involuntary transfer of a beneficiary's interest shall not preclude exercise of the decanting power.

The bill allows an authorized fiduciary to exercise the decanting power under the UTDA even if the first-trust instrument permits the authorized fiduciary or another person to modify the first-trust instrument or to distribute part or all of the principal of the first trust to another trust.

Additionally, the bill provides that, to the extent the creation of a second-trust instrument is permitted, if a first-trust instrument contains an express prohibition as described above, the provision must be included in the second-trust instrument.

Fiduciary Compensation (Section 16). The bill states that, if a first-trust instrument specifies an authorized fiduciary's compensation, such person may not exercise the decanting power to increase their compensation above the amount specified unless:

- All qualified beneficiaries of the second trust consent to the increase in a signed record; or
- The increase is approved by the court.

The bill clarifies that a change in the authorized fiduciary's compensation that is incidental to other changes made by the exercise of the decanting power is not an increase in the fiduciary's compensation for purposes of the bill.

Second-trust Instrument—Fiduciary Liability (Section 17). The bill provides that except as otherwise provided in the bill, a second-trust instrument shall not relieve an authorized fiduciary from liability for a breach of trust to a greater extent than the first-trust instrument.

Further, the bill states a second-trust instrument may provide for indemnification of an authorized fiduciary of the first trust or another person acting in a fiduciary capacity under the first trust for any liability or claim that would have been payable from the first trust if the decanting power had not been exercised.

The bill specifies that a second-trust instrument will not reduce fiduciary liability in the aggregate. However, a second-trust instrument may divide and reallocate fiduciary powers among fiduciaries, including one or more trustees, distribution advisors, investment advisors, trust protectors, or other persons, and relieve a fiduciary from liability for an act or failure to act of another fiduciary as permitted by Kansas law other than the UTDA.

Modification of the Power to Remove or Replace a Fiduciary (Section 18). The bill states an authorized fiduciary may not exercise the decanting power to modify a provision in a first-trust instrument granting another person power to remove or replace the fiduciary unless the:

- Person holding the power consents to such modification in a signed record and the modification only applies to such person;
- Person holding the power and the qualified beneficiaries of the second trust consent to the modification in a signed record and the modification grants a substantially similar power to another person; or
- A court approves the modification, and the modification grants a substantially similar power to another person.

Limitations on Decanting Power with Respect to Tax Liability (Section 19). The bill defines relevant terms used in this section and sets limitations for an exercise of the decanting power with respect to transfers of property affecting tax liability.

Tax deductions. Under the UTDA, if a first trust contains property that qualified, or would have qualified but for the UTDA for certain types of tax deductions as specified in the bill, a second-trust instrument may not include or omit any terms that would have a consequence of preventing the transfer from qualifying for the deduction, or reducing the amount of such deduction.

S corporation stock. The bill specifies that, if the property of the first trust includes shares of stock in an S corporation as defined in federal law and the first trust is, or but for the provisions of the UTDA would be, a permitted shareholder, an authorized fiduciary may exercise the decanting power with respect to any or all of such stock, but only if the second trust receiving the stock is a permitted shareholder under federal law. If the first trust is a qualified subchapter-S trust under federal law, the second trust may not include or omit a term that prevents the second trust from qualifying as a qualified subchapter-S trust.

Generation-skipping transfer tax. If the trust contains property that qualified or would have qualified but for the purposes of the UTDA for a zero inclusion ratio for purposes of the federal generation-skipping transfer tax, the second trust may not include or omit a term that prevents the second trust from qualifying for a zero inclusion ratio under federal law.

Qualified benefits property. If the first trust is directly or indirectly the beneficiary of qualified benefits property, the second-trust instrument may not include or omit any term that, if included in or omitted from the first-trust instrument, would have increased the minimum distributions required under federal law, including any applicable regulations or similar requirements. If an attempted exercise of the decanting power violates such, the trustee shall be deemed to have held such property and any reinvested distributions of the property as a separate share from the date of the exercise of the power applies to such share.

Grantor trust. If the first trust qualifies as a grantor trust under federal law, the second trust may not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented the first trust from qualifying under federal law.

Tax benefit. The bill defines the term "tax benefit" to mean a federal or state tax deduction, exemption, exclusion, or other benefit not discussed by the UTDA, except for a benefit arising from being a grantor trust.

The bill specifies a second-trust instrument may not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented qualification for a tax benefit if the:

- First-trust instrument expressly indicates an intent to qualify for the benefit or the first-trust instrument clearly is designed to enable the first trust to qualify for the benefit; and
- Transfer of property held by the first trust or the first trust qualified, or but for the UTDA would have qualified for the tax benefit.

The bill further specifies that, subject to the S-corporation provisions, except as otherwise provided, the second trust may be a nongrantor trust, even if the first trust is a grantor trust.

Objection by a settlor. The bill specifies that an authorized fiduciary may not exercise the decanting power if a settlor objects in a signed record delivered to the fiduciary within the notice period and:

- The first trust and a second trust are both grantor trusts, in whole or in part, the first trust grants the settlor or another person the power to cause the first trust to cease to be a grantor trust, and the second trust does not grant an equivalent power to the settlor or other person; or
- The first trust is a nongrantor trust and a second trust is a grantor trust, in whole or in part, with respect to the settlor, unless the:
  - Settlor has the power at all times to cause the second trust to cease to be a grantor trust; or
  - First-trust instrument contains a provision granting the settlor or another person a power that would cause the first trust to cease to be a grantor trust and the second-trust instrument contains such provision.

Trust Duration (Section 20). The bill specifies that a second trust may have a duration that is the same as or different from the duration of the first trust. But, to the extent the property of a second trust is attributable to property of the first trust, such property shall be subject to any rules governing maximum perpetuity, accumulation, or suspension of the power of alienation that apply to the property of the first trust.

Discretionary Distribution Standard (Section 21)

The bill allows an authorized fiduciary to exercise the decanting power regardless of whether, under the discretionary distribution standard of the first trust, the fiduciary could have made or would have been compelled to make a discretionary distribution of principal at that time.

Second-trust Instrument Noncompliance (Section 22)

Under the bill, if exercise of the decanting power would be effective under the UTDA except the second trust does not comply in part with the UTDA, the decanting is effective. The following rules will apply with respect to the principal of the second trust attributable to the exercise of the power:

- A provision in the second-trust instrument that is not permitted under the UTDA is void to the extent necessary to comply;

- A provision required by the UTDA to be in the second-trust instrument, but is absent, is deemed to be included to the extent necessary to comply.

The bill further specifies that, if a trustee or other fiduciary of a second trust determines the above provisions apply to a prior exercise of the decanting power, the fiduciary must take corrective action consistent with their fiduciary duties.

Animal Trusts (Section 23)

The bill defines “animal trust” to mean a trust or interest in a trust created to provide for the care of one or more animals. “Protector” means a person appointed in an animal trust to enforce the trust on behalf of the animal, or, if no such person is appointed in the trust, a person appointed by the court for such purpose.

Under the bill, the decanting power may be exercised of an animal trust that has a protector to the extent the trust could be decanted under the UTDA if each animal that benefits from the trust were an individual, if such protector consents in a signed record.

The bill provides that a protector for an animal has the same rights under the UTDA as a qualified beneficiary.

Notwithstanding other provisions of the UTDA, if a first trust is an animal trust, in an exercise of the decanting power, the second trust is required to provide that trust property may be applied only to its intended purpose for the time period the first benefited such animal.

Kansas Uniform Trust Code—Second Trusts (Section 24)

The bill provides that references in the Kansas Uniform Trust Code to a trust instrument or terms of a trust also include a second-trust instrument and its related terms.

Second Trust Settlor (Section 25)

Under the bill, and for purposes other than the UTDA, a settlor of a first trust shall be deemed to be the settlor of a second trust with respect to the portion of the principal of the first trust that is subject to the decanting power.

The bill specifies that, in determining settlor intent with respect to the second trust, the intent of the first trust settlor, the intent of the second trust settlor, and the authorized fiduciary may be considered.

Later-discovered Property (Section 26)

Pursuant to the bill, if exercise of the decanting power was intended to transfer all the principal of the first trust to one or more second trusts, later-discovered property belonging to the first trust and property paid to or acquired by the first trust after exercise of the decanting power shall be part of the trust estate of the second trust or trusts.

Under the bill, if exercise of the decanting power was intended to distribute less than all the principal of the first trust to a second trust or trusts, such property as described above remains part of the trust estate of the first trust.

The bill also specifies that an authorized fiduciary may provide in an exercise of the decanting power, or by the terms of a second trust, for disposition of such property described above.

Debts and Liabilities (Section 27)

Under the bill, a debt, liability, or other obligation enforceable against the property of a first trust is enforceable to the same extent against property held by a second trust after exercise of the decanting power.

Uniformity (Section 28)

The bill requires that in applying and construing the UTDA, consideration be given to the need to promote uniformity of the law among states that enact such law.

Electronic Signatures (Section 29)

The bill states that the UTDA modifies, limits, or supersedes the electronic signatures in the federal Global and National Commerce Act, but does not modify, limit, or supersede certain other federal laws, or authorize electronic delivery of any of the notices described in that Act.

Severability (Section 30)

The bill provides that if any provision of the UTDA is held to be invalid, such invalidity would not affect other provisions or applications of the UTDA that can be given effect without such invalid provision or application.

Amendments Concerning the RAP (Sections 31-32)

[*Note:* The statutory rule against perpetuities (RAP) contained in the Kansas Probate Code states that a nonvested property interest is invalid unless such property is certain to vest or terminate no later than 21 years after the death of an individual who is alive when the interest is created, or unless such interest either vests or terminates within 90 years after its creation.]

Modification or Termination of Noncharitable Irrevocable Trust by Consent (Section 31)

The bill amends a provision in the Kansas Uniform Trust Code governing modification or termination of noncharitable irrevocable trusts by consent to specify application of the RAP shall not be presumed to constitute a material purpose of the trust.

Exclusion from the Statutory RAP (Section 32)

The bill amends law in the statutory RAP governing exclusions to the RAP to add an exclusion for trusts created or amended by will, *inter vivos* agreement, or exercise of power of appointment on or after July 1, 2023, that meet the following criteria:

- The governing instrument has specified the RAP does not apply; and
- The trustee or other person to whom proper power has been granted or delegated has power to sell, lease, or mortgage property for a period of time beyond the period that would otherwise be required for an interest created under the governing instrument to vest.

Kansas Income Tax Act Definitions (Section 33)

The bill expands the definition of "resident trust" in the Kansas Income Tax Act to include the requirement that such resident trust has at least one income beneficiary who was a resident of the state on the last day of the taxable year.

Removing Mandatory Confinement for Certain Driving Violations; HB 2216

HB 2216 removes, for a first-time offender, the mandatory term of imprisonment for driving with a driver's license that was canceled, suspended, or revoked for failure to appear in response to a traffic citation or failure to pay fines or otherwise comply with a traffic citation. Convictions for the offense will be subject to a mandatory fine of at least $100.

The bill also replaces all references to "imprisonment" with "confinement."

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

Scrap Metal Theft Reduction Act—Catalytic Converters; HB 2326

HB 2326 extends the sunset date on the Scrap Metal Theft Reduction Act from July 1, 2023, to July 1, 2028, and specifies "regulated scrap metal" under the Act includes catalytic converters, as defined by the bill.

The bill also prohibits scrap metal dealers to make purchases from certain unauthorized sellers, as described in the bill, of any catalytic converter that has a defaced identification mark or owner-applied paint or identification number; or has been intentionally altered by removing or obliterating the make, model, or manufacturer's number. The bill also prohibits the unauthorized sale of any by-product or dust containing platinum, palladium, or rhodium under the Act.

PUBLIC SAFETY

Information Sharing in Law Enforcement Hiring; SB 189

SB 189 amends law regarding file and information sharing by law enforcement agencies regarding applicants for employment.

The bill requires each applicant who has submitted an application for a law enforcement officer position to execute a written waiver that authorizes disclosure of an applicant's previous employment records to the hiring agency when such applicant has submitted an application for a law enforcement officer position with another state or local law enforcement agency or governmental agency. [*Note:* Current law requires the waiver to be executed only for actual employment at the agency.]

The bill states that the agency that has employed the applicant in a law enforcement position, received an application for a law enforcement position from the applicant, or conducted a background investigation on the applicant is authorized to disclose the applicant's files to the requesting agency.

The definition of "files" as used for this purpose is expanded to include the employment application, background investigations, polygraph or voice stress analysis examination results, and law-enforcement-related psychological evaluation reports connected to the application process, regardless of whether the applicant was ultimately hired.

In addition, the bill adds an exclusion to the definition of "files" as used for this purpose: psychological examination reports not directly related to the applicant's suitability for law enforcement employment or certification.

Boiler Safety Act and EMS—Instructor Coordinator; HB 2014

HB 2014 amends law related to the Boiler Safety Act to remove statutory qualifications of the Chief Inspector of Boiler Safety and deputy inspectors and removes references in emergency medical services (EMS) law to persons holding the instructor-coordinator designation.

Boiler Safety Act

The bill removes the following statutory qualifications for the Chief Inspector of Boiler Safety, which required a chief inspector to have:

- No less than five years of experience in the construction, installation, repair, operation, or inspection of boilers, steam generators, super-heaters, or pressure vessels;
- An in-service commission; and
- The following endorsements issued by the National Board of Boiler and Pressure Vessel Inspectors (NBBI):

  - An "A" endorsement; and
  - A "B" endorsement, or the ability to acquire such endorsement within 18 months after appointment as chief inspector.

The bill also removes the following statutory qualifications for deputy inspectors, which required a deputy inspector to have:

- Completed courses and training, and have experience in the construction, installation, repair, operation, or inspection of boilers or pressure vessels, with at least two years of time spent in the aggregate on education, training, and experience; or
- Have at least five years' experience in the heating, ventilation, air conditioning, or plumbing fields related to the installation or repair of boilers or pressure vessels; and
- Hold an in-service commission issued by the NBBI, or the ability to acquire such commission within 12 months after appointment as deputy inspector.

EMS—Instructor Coordinator

The bill removes the definition of the term "instructor-coordinator" and removes provisions concerning civil damages related to an instructor-coordinator's course of instruction.

The bill also amends the definition of "healthcare provider" to replace a reference to first aid courses taught by an instructor-coordinator with first aid courses taught by the Board of Emergency Medical Services (BEMS). The bill also clarifies language in the definition to include licensed physician assistants and removes outdated language related to required training and specified examinations.

The bill amends the statutory membership of the BEMS to replace an instructor-coordinator member with a member who is actively involved in teaching initial courses of instruction for certification as an EMS provider.

RETIREMENT

Kansas Public Investments and Contracts Protection Act—Environmental, Social, and Governance Criteria; HB 2100

HB 2100 creates the Kansas Public Investments and Contracts Protection Act and amends law governing the Kansas Public Employees Retirement Fund (Trust Fund) and investment standards to prohibit state agencies and other political subdivisions from giving preferential treatment to or discriminating against companies based on environmental, social, or governance (ESG) criteria in the procuring or letting contracts; require fiduciaries of the Kansas Public Employees Retirement System (KPERS or System) to act solely in the interest of participants and beneficiaries of the System; restrict state agencies from adopting ESG criteria or requiring any person or business to operate in accordance with such criteria; provide for enforcement of this act by the Attorney General; and indemnify KPERS with respect to actions taken in compliance with this act.

Kansas Public Investments and Contracts Protection Act

The bill designates the following provisions of the bill as the Kansas Public Investments and Contracts Protection Act (Act).

Definitions

The bill creates several definitions for terminology associated with the Act. Among these terms, the bill defines:

- “Board” means the Board of Trustees of KPERS;
- “System” means KPERS;
  - “System” does not include participant-directed individual account plans;
- “Environmental, social, and governance criteria” means any criterion that gives preferential treatment or discriminates based on whether a company meets or fails to meet one or more of the following criteria:
  - Engaging in the exploration, production, utilization, transportation, sale, or manufacturing of:
    - Fossil fuel-based energy;
    - Nuclear energy; or
    - Any other natural resource;
  - Engaging in the production of agriculture;
  - Engaging in the production or lumber;
  - Engaging in mining;
  - Emitting greenhouse gases or not disclosing or offsetting such greenhouse gas emissions;

- Engaging in the manufacturing, distribution, or sale of firearms, firearms accessories, ammunition, or ammunition components;
- Having a governing corporate board or other officers whose race, ethnicity, sex, or sexual orientation meets or does not meet any criterion;
- Facilitating or assisting or not facilitating or assisting employees in obtaining abortions or gender reassignment services; and
- Doing business with any company described in the above-listed criteria;

- "Fiduciary" means any person acting on behalf of the Board of Trustees or System as an investment manager, proxy advisor, or contractor, including the System's Board of Trustees;
  - The bill further specifies that a fiduciary may reasonably be determined to have taken an action or considered a factor with a purpose to further social, political, or ideological interests based upon evidence indicating such a purpose, including, but not limited to, any fiduciary commitment to further, through portfolio company engagement, board, or shareholder votes or otherwise as a fiduciary, any of the following beyond what controlling federal or state law requires, specifically on assets managed on behalf of the System:
    - Eliminating, reducing, offsetting, or disclosing greenhouse gas emissions;
    - Instituting or assessing corporate board, employment, composition, compensation, or disclosure criteria that incorporates characteristics protected under state law;
    - Divesting from, limiting investment in, or limiting the activities or investments of any company for failing or not committing to meet environmental standards or disclosures;
    - Accessing abortion, sex or gender change, or transgender surgery; or
    - Divesting from, limiting investment in, or limiting the activities or investments of any company that engages in, facilitates, or supports the manufacture, import, distribution, marketing, advertising, sale, or lawful uses of firearms, ammunition, or component parts and accessories of firearms or ammunition; and
- "Fossil fuels" means coal, natural gas, petroleum, or oil formed by natural processes through decomposition of dead organisms.

The bill also defines the terms "Act," "company," "fiduciary commitment," "financial," and "natural resources."

State Contracts—No Preferential Treatment or Discrimination Against Based on ESG Criteria

The bill requires the State and its agencies (including the Pooled Money Investment Board) and subdivisions, when engaged in procuring or letting contracts for any propose, to

ensure that bidders, offerors, contractors, or subcontractors are not given preferential treatment or discriminated against based on ESG criteria.

The bill further prohibits the State and its agencies and subdivisions from adopting any procurement regulation or policy that causes any bidder, offeror, contractor, or subcontractor to be given preferential treatment or be subject to discrimination based on ESG criteria, except as otherwise specifically permitted or required by law.

Investments by the Retirement System and Duties of the System, Investment Managers, and Other Advisors

Discharge of duties. The bill requires the System and any investment manager, proxy advisor, or contractor, when making and supervising investments of the System, to discharge its duties solely in the financial interest of the participants and beneficiaries for the exclusive purposes of providing financial benefits to participants and their beneficiaries and defraying reasonable expenses of administering the System.

The bill further subjects investment managers, proxy advisors, or contractors retained by the System to the same fiduciary duties as the System's Board of Trustees. The bill also states that a fiduciary shall consider only financial factors when discharging such fiduciary's duties with respect to the System.

Proxy voting authority and practice. The bill also provides the following conditions regarding proxy votes (voting of shares):

- All shares held directly or indirectly by or on behalf of the System or the participants and their beneficiaries must be voted solely in the financial interest of the system participants and their beneficiaries;

- Unless no economically practicable alternative is available, the System cannot grant proxy voting authority to any person who is not part of the System, unless that person has a practice of, and in writing commits to, following guidelines that match the System's obligation to act solely upon financial factors, in which case the System may grant proxy voting authority to such person;

- Unless no economically practicable alternative is available, in the selection of the proxy advisor, the System must give preference to a proxy advisor service that commits in writing to engage in voting shares and making recommendations in a strictly fiduciary manner, and without consideration of policy objectives that are not the express policy objectives of the System, in which case the System may engage a proxy voting advisor;

- Unless no economically practicable alternative is available, System assets cannot be entrusted to a fiduciary unless the fiduciary has a practice of, and in writing commits to, following guidelines, when engaging with portfolio companies and voting shares or proxies, that follow the system's obligation to act solely upon financial factors and not upon policy considerations that are not the express policy objectives of the System, in which case the System may entrust engagement and share voting to a fiduciary;

- Unless no economically practicable alternative is available, an investment manager or contractor cannot adopt a practice of following the recommendations of a proxy advisor or other service provider unless the advisor or service provider has a practice of, and in writing commits to, following proxy voting guidelines that the follow the system's obligations to act solely upon financial factors, in which case the investment manager or contractor may follow the recommendations of a proxy or other service advisor; and

- All proxy votes must be tabulated and reported annually to the System's Board of Trustees and to the Joint Committee on Pensions, Investments and Benefits. The reports must be posted on the System's website for review by the public; and
  - The reports must contain, for each vote: a vote caption, the System's vote, the recommendation of company management, and, if applicable, the proxy advisor's recommendation.

The bill further states that provisions relating to proxy voting authority, selection of proxy advisors, voting shares and guidelines, and reporting shall apply only to assets managed on behalf of the System and shall not apply to alternative or real estate investments as defined in the law governing the Trust Fund and investment standards (KSA 74-4921(5)).

State Agencies, Prohibition on ESG Requirements on Persons or Businesses

The bill prohibits state agencies from sharing or publishing information, adopting policies, adopting rules and regulations, or issuing guidelines for the purposes of ESG criteria that restrict the ability of any industry to offer products or services. Under the bill, a state agency cannot require any person or business to adopt or operate in accordance with ESG criteria. The bill defines "state agency" for its use in this section as "an office, board, commission, department, council, bureau, governmental entity, or other agency of state government having authority to adopt or enforce rules and regulations."

Enforcement of the Act, Contracts Subject to the Act

The bill provides that the Act or any contract subject to the Act may be enforced by the Attorney General. The bill further states if the Attorney General has reasonable cause to believe that a person has engaged in, is engaging in, or is about to engage in a violation of the Act, the Attorney General may require:

- The person to file on such forms as the Attorney General may prescribe a statement of report in writing, under oath, as to all the facts and circumstances concerning the violation; and

- The filing of other data and information as deemed necessary.

Damages. The bill provides that, in addition to any other remedies available at law or equity, a system investment manager or contractor that serves as a fiduciary and violates the provisions of Section 3 (duties of the system, investment managers, other advisors) will be obligated to pay damages to the State in an amount equal to three time all moneys paid to the

investment manager or contractor by the System for the services of such investment manager or contractor.

Compliance with Act; Indemnification for System and its Representatives, Board of Trustees

The bill provides that in a cause of action based on action, inaction, decision, divestment, investment, report, or other determination made or taken in compliance with the Act, without regard to whether the person performed services for compensation, the State must indemnify and hold harmless for actual damages, courts costs, and attorney fees adjudged against and defend the System and any of its current and former employees, members of the Board, or any other officers of the System related to the Act or omission on which the damages are based.

Kansas Public Employees Retirement Fund and Investment Objective Delegated to the Board of Trustees

The bill also amends law governing the Trust Fund and investment standards to modify an existing prohibition on the investment and reinvestment of the Trust Fund to state that no moneys may be invested or reinvested if an investment objective is for economic development or social purposes or objectives. [*Note:* Current law states these moneys could not be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives.]

The bill also makes technical updates to the Trust Fund provisions by updating the organization of the statutes and removing obsolete language.

DROP Membership Expansion, Sunset Date; KDWP Affiliation in KP&F for Certain Employees; HB 2196

HB 2196 authorizes the affiliation of certain persons employed by the Kansas Department of Wildlife and Parks (Department) into the Kansas Police and Firemen's (KP&F) Retirement System on July 1, 2023. The bill also expands the defined membership of the Deferred Retirement Option Program (DROP) to include any member of KP&F who is eligible to participate in DROP and extends the sunset date for DROP from January 1, 2025, to January 1, 2031.

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

KP&F Affiliation

The bill authorizes the Department to become an eligible employer with the KP&F Retirement System on July 1, 2023, for persons employed in the parks, public lands, or law enforcement division who have completed the coursework for law enforcement officers approved by the Kansas Law Enforcement Training Center and who are certified as full-time police officers or law enforcement officers. The application for affiliation with KP&F will be effective on the July 1 next following application. The bill requires the Division of the Budget and Governor to budget future contributions accordingly.

Under this affiliation, the Department will pay the KP&F employer contribution rate for its qualified employees. As KP&F members, the employees will contribute at the rate of 7.15 percent of compensation rather than to the Kansas Public Employees Retirement System (KPERS or the Retirement System) at the rate of 6.0 percent as they currently do. The determination of benefits will be based upon service credited under KP&F statutes and include participating service earned on and after July 1, 2023. Department employees who become KP&F members and have a vested retirement benefit under KPERS but terminate employment prior to vesting in KP&F will be allowed to have their KP&F service credit apply to KPERS benefits.

Legacy Costs of Affiliation; Amortization, Payment Options

The bill provides the actuarial legacy cost of $2,733,769, for the remaining unfunded liabilities in the Retirement System be amortized over 20 years as a level dollar amount, as certified by the KPERS Board of Trustees upon recommendation of its consulting actuary, through an additional payment by the Department. The bill also permits, subject to appropriations, the Department to make a payment in full or payments in two installments for the actuarial legacy cost prior to the expiration of the 20-year amortization period.

DROP Membership Expansion

The bill expands the defined membership of DROP to include any KP&F member who is eligible to participate and elects to participate in DROP, replacing a definition that includes only a trooper, examiner, or officer of the Kansas Highway Patrol or an agent of the Kansas Bureau of Investigation.

SOCIAL SERVICES

Public Assistance Eligibility; Child Care Subsidy; Food Assistance; Employment and Training Program; HB 2094

HB 2094 continues the existing statutory requirement that parents cooperate with child support services administered by the Department for Children and Families (DCF) as a condition of receiving a child care subsidy and maintains the periods of ineligibility for a child care subsidy for non-cooperation. The bill requires the Secretary for Children and Families (Secretary), or the Secretary's designee, to review a parent's child support compliance at certain specified times. The bill also amends law pertaining to eligibility requirements for the food assistance program (Supplemental Nutrition Assistance Program or SNAP) to require work registrants ages 50 through 59 without dependents who are not exempt under federal law to participate in an employment and training program.

The bill also makes technical amendments to remove duplicative language defining "non-cooperation" and to replace references to "child care benefits" with "child care subsidy" in continuing law that governs the assignment of support rights to the Secretary by applicants and recipients of a child care subsidy when cooperating with child support services.

Non-cooperation with Child Support Services; Child Care Subsidy Disqualification

Timing of Child Support Compliance Reviews

The bill requires the Secretary, or the Secretary's designee, to review the child support compliance of parents applying for or receiving a child care subsidy, upon application for a child care subsidy, after 12 months of continuous eligibility for the subsidy and following such 12 months of continuous eligibility when the Secretary renews or redetermines a parent's eligibility for the subsidy.

Periods of Ineligibility

The periods of ineligibility for a child care subsidy for a parent's failure to comply with child support services are the same as in current law, with an additional condition that non-compliance reviews occur at the specific times outlined in the bill.

The periods of ineligibility for a child care subsidy for non-compliance with child support services in continuing law are:

- First penalty, three months and cooperation with child support services prior to regaining eligibility;
- Second penalty, six months and cooperation with child support services prior to regaining eligibility;
- Third penalty, one year and cooperation with child support services prior to regaining eligibility; and
- Fourth penalty, ten years.

Employment and Training Requirements for Food Assistance

The bill amends law pertaining to eligibility requirements for SNAP. The bill requires DCF to assign work registrants ages 50 through 59 without dependents who are not exempt under 7 USC § 2015(d)(2) to an employment and training program as a condition of participation in SNAP. Under current law, only able-bodied adults ages 18 through 49 without dependents and individuals who are not employed at least 30 hours per week are required to participate in an employment and training program to receive SNAP benefits.

[*Note:* 7 USC § 2015(d)(2) is a federal law that exempts the following work registrants between the ages of 16 and 59 from a work requirement:

- An individual currently subject to and complying with a work registration requirement under another federal program or the federal-state unemployment compensation system;
- A parent or other member of a household with responsibility for the care of a dependent child under six years of age or of an incapacitated person;
- A *bona fide* student enrolled at least half-time in any recognized school, training program, or institution of higher education (except that any such person enrolled in an institution of higher education must meet additional requirements);
- A regular participant in a drug addiction or alcoholic treatment and rehabilitation program;
- An individual employed a minimum of 30 hours per week or receiving weekly earnings that equal the federal minimum hourly rate, multiplied by 30 hours; or
- A person between the ages of 16 and 18 who is not a head of a household or who is attending school, or enrolled in an employment training program, on at least a half-time basis.]

STATE FINANCES

State Budget—Appropriations; HB 2184

HB 2184 contains FY 2023 supplemental funding, FY 2024 funding for most state agencies, and FY 2025 expenditures for certain state agencies. The bill also contains some FY 2025 appropriations for the Kansas Board of Regents and claims against the State.

K-12 expenditures have been deleted from the bill and added to House Sub. for SB 113 and House Sub. for SB 83.

FY 2023 Approved Budget

The bill includes expenditures of $17.9 billion, including $4.8 billion from the State General Fund (SGF) and excluding K-12 education, in FY 2023. This is an all funds decrease of $6.8 billion, including $4.4 billion SGF.

Major adjustments include:

- Deleting $6.8 billion, including $4.4 billion SGF, and 258.2 full-time equivalent (FTE) positions to remove the Department of Education budget present in HB 2274 and inserting the FY 2023 Department of Education budget into a separate bill, as recommended by the House Committee on K-12 Education Budget;

- Deleting $53.0 million SGF to not adopt the Governor's recommendation to pay off water storage debt associated with the Milford and Perry Lake reservoirs in FY 2023 and adding $52.0 million SGF to a new investment fund for water storage debt payments associated with Milford and Perry reservoirs in FY 2023;

- Deleting $49.4 million, all federal American Rescue Plan Act (ARPA) funds, from business closure rebates in FY 2023; and

- Making the following revenue adjustments:
  - Deleting the transfer of $50.0 million from the SGF to the Office of the Governor in FY 2023 for state match for agencies applying for federal grant programs;
  - Deleting the transfer of $220.0 million SGF to the Office of the Governor for communities to use as state match when accessing federal Bipartisan Infrastructure Law funding. This transfer has been replaced by an annual transfer of $55.0 million to the Office of the Treasurer for four years starting in FY 2024 for a similar purpose; and
  - Adding language to increase the maximum transfer from lottery vending machines for crisis stabilization services and the Clubhouse model program to $9.0 million in FY 2023.

FY 2024 Approved Budget

The bill contains expenditures of $16.8 billion, including $4.8 billion SGF, for FY 2024. This is an all funds decrease of $7.3 billion and a SGF decrease of $4.8 billion below the Governor's FY 2024 recommendation.

Major adjustments include:

- **Department of Education.** Deleting $6.8 billion, including $4.7 billion SGF, and 258.2 FTE positions to remove the Department of Education budget from HB 2273 and insert the FY 2024 Department of Education budget into a separate bill, as recommended by the House Committee on K-12 Education Budget:
    - The deletion for FY 2025 totals $4.0 billion, including $2.7 billion SGF, to remove the Department of Education budget.
- **Kansas Department of Health and Environment—Health**. Deleting $645.3 million and adding $85.1 million SGF:
    - Deleting $671.4 million, including the addition of $71.5 million SGF, to remove funding for Medicaid expansion for FY 2024. The all funds deletion includes $703.4 million from federal funds and $39.4 million from special revenue funds; and
    - Adding $7.9 million, including $3.2 million SGF, to increase emergency medical service rates for FY 2024.
- **Kansas Department for Aging and Disability Services**—Adding $132.7 million, including $36.8 million SGF:
    - Adding $61.6 million, including $24.6 million SGF, to fund additional payments to nursing facilities based on the number of Medicaid residents served for FY 2024;
    - Adding $34.4 million, including $14.0 million SGF, to fully rebase the daily Medicaid rate for nursing facilities for FY 2024;
    - Adding $13.0 million, including $5.2 million SGF, to increase the Home and Community Based Services (HCBS) Frail Elderly (FE) waiver reimbursement rates by 10.0 percent for FY 2024;
    - Adding $7.4 million, including $3.0 million SGF, to increase the targeted case management reimbursement rate to $75.00 per hour for FY 2024; and
    - Deleting $22.0 million SGF and adding $22.0 million from federal ARPA funds to expand the Ascension Via Christi emergency room for FY 2024. The $22.0 million ARPA funds will be taken from the ARPA funds appropriated to the Department of Administration by the 2022 Legislature.
- **Department for Children and Families**—Adding $15.2 million, including $12.8 million SGF:

  - Adding $6.0 million, including $5.1 million SGF, for Children's Alliance of Kansas to fund development of a Foster Care Therapeutic Program for Child Placing Agencies to recruit, train, and retain therapeutic foster homes for FY 2024; and
  - Adding $2.5 million SGF for software as a service for FY 2024.

- **Kansas Highway Patrol**—Adding $6.9 million in special revenue funds and increasing the transfer from the State Highway Fund to the Aircraft Fund by the same amount, to purchase and equip a new law enforcement helicopter for FY 2024. The bill also requires that, upon delivery of the new helicopter, at least one helicopter must be stationed at the Troop T location in the Wichita area.

- **Wichita State University and University of Kansas**—Adding $142.0 million federal ARPA funds for the KU and WSU Health Science Center joint project.

- **Kansas Board of Regents**—Adding $14.3 million SGF for community colleges to expand registered apprenticeships, technical education, businesses, and industry partnership, with distribution based on the FTE student count at each college for FY 2024.

- **Department of Commerce**—Adding $5.5 million from the Economic Development Initiatives Fund (EDIF):
  - Adding $3.0 million EDIF for the Sunflower Summer Program for FY 2024. The bill requires the agency to expend funds to recruit and add new venues geographically located across the state to participate in the program and allow a participating venue that does not require an admission price or requests a small donation for admission to be reimbursed $5.00 for each program ticket used for admission;
  - Adding $2.5 million federal ARPA funds for upgrades to a public television broadcasting studio in western Kansas for FY 2024;
  - Adding language allowing the approval of a Sales Tax and Revenue (STAR) Bond project for a major amusement park and allowing the project to be eligible for financing by special obligation bonds for FY 2024; and
  - Adding language to increase the bonding authority for a rural development project without the issuance of special obligation bonds up to $25.0 million.

- **State Treasurer**:
  - Adding $2.0 million SGF to the Alternatives to Abortion Program account to establish a statewide program to enhance and increase resources that promote childbirth instead of abortion to women facing unplanned pregnancies and to offer a full range of services, including pregnancy support centers, adoption assistance, and maternity homes for FY 2024; and
  - Transferring $50.0 million SGF for FY 2024 and $55.0 million SGF for FY 2025–2027 to the Build Kansas matching grant fund. The bill adds

language that caps technical support at $5.0 million for FY 2025–FY 2027; allows money to remain in the special revenue fund; requires a means test to be developed and used for those local communities applying for the infrastructure grants; creates the Build Kansas Joint Committee; requires the Build Kansas Joint Committee to approve the projects, subject to the approval of the State Finance Council; requires the State Finance Council to approve any request to exceed the $55.0 million annual cap; and requires an annual report from each state agency assisting local communities with the process to the Senate Committee on Ways and Means and House Committee on Appropriations on expenditures, expenditure requests, and approved projects.

- **Judicial Branch**—Deleting $16.3 million SGF for salary adjustments for FY 2024.

- **State Employee Pay**—Deleting $169.5 million, including $65.5 million SGF, to not implement a statewide 5.0 percent salary increase among state employees for FY 2024.

The bill also includes the following revenue adjustments:

- Transferring $50.0 million SGF to the Build Kansas Matching Grant Fund;

- Transferring $4.2 million SGF to the Special City and County Highway Fund;

- Adding $100.0 million SGF to the transfer to the Budget Stabilization Fund for a total of $600.0 million for FY 2024; and

- Increasing the transfer from lottery ticket vending machines to $9.0 million from $8.0 million.

STATE GENERAL FUND RECEIPTS, EXPENDITURES, AND BALANCES

HB 2184 – Profile
(Dollars in Millions)

	Actual FY 2022	HB 2184 FY 2023	HB 2184 FY 2024
Beginning Balance	$ 2,094.8	$ 1,834.5	$ 1,793.3
Receipts (November 2022 Consensus)	7,935.9	9,701.2	10,124.4
Governor's Revenue Adjustments	0.0	(770.0)	193.4
Legislative Tax Adjustments	0.0	0.0	(256.9)
Legislative Receipt Adjustments	0.0	268.8	(155.2)
Adjusted Receipts	7,935.9	9,200.0	9,905.7
Total Available	$ 10,030.7	$ 11,034.5	$ 11,699.0
Less Expenditures	8,196.2	4,824.0	4,828.2
Education Base Budget	0.0	4,417.2	4,722.6
Ending Balance	**$ 1,834.5**	**$ 1,793.3**	**$ 2,148.2**
Ending Balance as a % of Expenditures	22.4 %	19.4 %	22.5 %

[*Note:* This profile includes the Governor's recommendation for the Department of Education in FY 2023 and FY 2024, pending legislative adjustments and tax adjustments.]

Legislative, Judicial, and State Official Compensation; House Sub. for SB 229

House Sub. for SB 229 establishes a nine-member Legislative Compensation Commission (Commission) and requires the Commission to study compensation, salary, and retirement benefits of legislative members; make recommendations on legislator retirement benefits; and set compensation and salary rates for legislators. The bill provides a process for appointment to the Commission, an initial legislator compensation study, initial compensation changes, and a method for the Legislature to reject the compensation rate set by the Commission.

Also, beginning January 1, 2025, and subject to appropriations, the bill establishes compensation rates for certain state officials, judges, and certain elected district attorneys that is to be equal to a percentage of the salaries for a U.S. congressional member, a U.S. district judge, or a district judge.

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

Commission Composition and Appointment

The Commission is composed of nine members who the bill prohibits from being current members of the Legislature, legislative staff, or registered lobbyists. The members of the Commission will be appointed in the following manner:

- One former legislator appointed by the Speaker of the House;
- One former legislator appointed by the President of the Senate;
- One member appointed by the Speaker *Pro Tem* of the House;
- One member appointed by the Vice President of the Senate;
- One member appointed by the House Majority Leader;
- One member appointed by the Senate Majority Leader;
- One member appointed by the House Minority Leader;
- One member appointed by the Senate Minority Leader; and
- One member appointed by the Governor.

All initial Commission members, excluding the Commission member appointed by the Speaker of the House, must be appointed by September 1, 2023.

The bill requires the initial Commission member appointed by the Speaker of the House to be appointed prior to August 1, 2023. This appointee serves as the Commission's first chairperson, and the initial Commission member appointed by the President of the Senate serves as the first vice-chairperson.

The bill requires the subsequent chairperson to be appointed by the President of the Senate prior to August 1, 2026, and the vice-chairperson to be appointed by the Speaker of the House prior to September 1, 2026. The bill requires new members of the Commission to be appointed in the year 2026 and every four years after. After 2026, the bill allows for the chairperson and vice-chairperson appointments to alternate between the Speaker of the House

and President of the Senate, beginning with the Speaker of the House appointing the Commission's chairperson. In each year a new commission is appointed, the bill requires the chairperson to be appointed by August 1 and the vice-chairperson to be appointed by September 1.

Any vacancy will be filled in the same manner as the original appointment, and members could be reappointed. A member's term lasts until the Commission has completed its responsibilities to study legislative pay, set a compensation rate, and made recommendations related to retirement benefits.

Powers, Duties, and Responsibilities

The Commission is authorized to:

- Study the compensation, salary, and retirement benefits of legislators;
- Set the rates of compensation and salary for members of the Legislature; and
- Make recommendations related to legislator retirement benefits.

The bill states the Commission appointed in the year 2026 and thereafter is required to set the rate of compensation for legislators for the four-year period commencing on the first day of the next term of office of elected Senators by December 1 of the calender year after the Commission's appointment.

The bill requires the Commission appointed in 2023 to establish a rate of compensation and salary by December 1, 2023, for legislators for a four-year period starting on the first day of the 2025 Legislative Session.

Compensation Rate Rejection Process

The bill requires the compensation rate and salary established by the Commission to become the rate of compensation and salary for legislators unless the Legislature rejects the rates through adoption of a concurrent resolution no later than 30 days after the start of a legislative session immediately following the submission of the compensation and salary rates. The concurrent resolution contains a requirement for the Commission to meet within 14 days of the concurrent resolution's adoption and submit another compensation and salary rate prior to 30 days after adoption of the concurrent resolution. The Legislature has until *Sine Die* to reject the second submitted compensation and salary rate. If the second compensation and salary rate is also rejected, the most current rate would remain in effect.

Meetings, Quorum, and Commission Compensation

The bill allows the Commission to meet upon call of the chairperson and defines a quorum as a majority of the members of the Commission (five). Commission members are eligible for compensation, allowance, and mileage as provided by current law.

Certain Elected Officials Compensation

The bill establishes new compensation rates, subject to appropriations, for certain elected officials. The new compensation is tied to the salary of a member of the U.S. Congress, not in a leadership role (congressional salary), which is currently $174,000, minus a certain percentage depending on the office. Percentages and salary information would be as follows:

- The Governor's salary will be equal to 100 percent of the congressional salary ($174,000);
- The Lieutenant Governor's salary will be equal to 25 percent of the congressional salary ($43,000);
- The Attorney General's salary will be equal to 2.5 percent less than the congressional salary ($169,650); and
- The salaries of the Secretary of State, State Treasurer, and Commissioner of Insurance will be equal to 7.5 percent less than the congressional salary ($160,950).

[*Note:* Salary amounts were obtained from the Congressional Research Service report *Congressional Salaries and Allowances: In Brief*, updated December 16, 2022.]

The bill also stipulates that if the congressional salary is decreased, the referenced salaries would remain the same for the ensuing fiscal year, unless reduced by law applicable to all salaried state officers.

Judicial Compensation

The bill establishes new compensation rates, subject to appropriations, for certain judge and justice positions and removes any reference in law to compensation limitations for such offices. The new rates would be a percentage of the annual salary for a U.S. district judge which is currently $232,600 or the new compensation rate for a district judge. Percentages and salary information established as follows:

- District judge salaries will be equal to 75 percent of the annual salary of a U.S. district judge ($174,450);
- District magistrate judge salaries will be equal to 55 percent of the annual salary of a district judge ($95,947);
- Chief Judge of the District Court salaries will be equal to 105 percent of the annual salary of a district judge ($183,173);
- Judge of the Court of Appeals salaries will be equal to 110 percent of the annual salary of a district judge ($191,895);

- Chief Judge of the Court of Appeals salary will be equal to 115 percent of the annual salary of a district judge ($200,618);

- Supreme Court Justice salaries will be equal to 120 percent of the annual salary of district judges ($209,340);

- Chief Justice of the Supreme Court salary will be equal to 125 percent of a district judge salary ($218,063); and

- District attorney salaries will be equal to 75 percent of the annual salary of a U.S. district judge ($174,450).

[*Note:* Salary amounts were obtained from the U.S. Courts website under Judges & Judgeships, Judicial Compensation.]

The bill would also stipulate that if the salary for a U.S. District Court Judge is decreased, the referenced salaries would remain the same for the ensuing fiscal year, unless reduced by law applicable to all salaried state officers.

Other Compensation Changes

The bill removes references in law pertaining to existing compensation limitations for certain elected officers, the Lieutenant Governor, Governor's Cabinet members, and certain judges.

State Cybersecurity and Information Technology Projects; HB 2019

HB 2019 creates requirements for reporting significant cybersecurity incidents by entities maintaining personal information provided by the State or using information systems operated by the State. Additionally, the bill authorizes the Executive Branch Chief Information Security Officer (CISO) to establish branch cybersecurity standards and policy, and make changes to the responsibilities of state agencies and agency heads with regard to cybersecurity training, assessment, and incident response.

The bill also makes several changes to the powers and duties of the Joint Committee on Information Technology (JCIT) with regard to JCIT's role in information technology (IT) project proposals. Further, the bill amends the definitions of "information technology project" and "IT project change or overrun."

The bill makes changes to membership requirements, membership terms, and quorum requirements for the Information Technology Executive Council (ITEC).

Cybersecurity Provisions

Cybersecurity Incident Reporting (New Section 1 and Section 3)

The bill requires any public entity that has a cybersecurity incident to notify the Kansas Information Security Office within 12 hours of discovering an incident. Any government

contractor that experiences such an incident that involves involving the following must notify the Kansas Information Security Office (KISO) within 72 hours of a determination that such an incident has occurred:

- Confidentiality; or
- Integrity or availability of personal or confidential information provided by the State of Kansas, networks or information systems operated by or for the State.

The bill also requires the contractor to notify the KISO within 12 hours after a determination is made during an investigation that such an incident directly impacted state data, networks or information systems. Additionally, if the incident involved election data, then the public entity or contractor must notify the Secretary of State within 12 hours or 72 hours, respectively.

The bill also requires entities connected to the Kansas Criminal Justice Information System (KCJIS) to report such incidents per the rules and regulations to be adopted by the Kansas Criminal Justice Information System Committee (KCJIS Committee). Such entities are exempt from reporting incidents to the KISO if they are not connected to any other State of Kansas information system, and the Kansas Bureau of Investigation (KBI) must notify the KISO of reports it receives per rules and regulations adopted by the KCJIS Committee within 12 hours of receiving such reports.

The bill specifies that information related to such an incident can only be shared with those responsible for response and defense activities in service of state information systems, or those requested to assist in such activities. The information pertaining to the incident would not be subject to the provisions of the Kansas Open Records Act. These confidentiality provisions will expire July 1, 2028, unless the Legislature reviews and reenacts the confidentiality provisions prior to their expiration.

The bill requires the KISO to provide instructions on its website, prior to October 1, 2023, detailing the submission of the required cybersecurity incident reports. Instructions must include, at a minimum, the types of incidents for which incident reports are required, and any information that must be included an incident report.

The bill also clarifies that provisions cannot supersede notification requirements in current contracts between the State and other entities.

Definitions

The bill defines the terms “cybersecurity incident,” “entity,” “government contractor,” “information system,” “personal information,” “private entity,” “public entity,” “security breach,” “significant cybersecurity incident,” and “unauthorized disclosure.”

CISO and KISO Requirements (Sections 13 and 14)

The bill modifies the CISO’s duties to include setting cybersecurity policy and standards for executive branch agencies, and makes similar technical changes to provisions related to requirements of the KISO. The bill requires the KISO to perform audits of Executive Branch

agencies for compliance with applicable laws, rules, policies, and standards adopted by ITEC. The audit results are subject to the provisions of the Kansas Open Records Act through July 1, 2028.

The bill requires the KISO to ensure a cybersecurity awareness training program is available to all branches of state government and remove the requirement that such training be made available at no cost. [*Note*: Current law requires the KISO to ensure a cybersecurity training program is provided only to the Executive Branch.]

The bill removes the requirements for KISO to provide cybersecurity threat briefings to ITEC and to provide an annual status report of Executive Branch cybersecurity programs to JCIT and the House Committee on Government, Technology, and Security.

Agency Head Cybersecurity Responsibilities (Section 15)

The bill establishes new requirements for executive agency heads with regard to cybersecurity. The requirements include:

- Participation in annual leadership training to better understand:
  - The impact of common types of cyberattacks and data breaches on state operations and assets;
  - How cyberattacks occur; and
  - The steps an agency head and their employees can take to protect information and IT systems;
- Disabling IT login credentials the same day any employee terminates their employment for the State; and
- Requiring all employees with access to IT systems to partake in at least one hour of IT security training each year.

Internal Cybersecurity Assessments

The bill renames the agency cybersecurity reports that are submitted to the CISO by October 16 of even-numbered years, from “assessment report” to “self-assessment report.” The appropriate agency head must provide authorization prior to the release of the reports. Agency heads are also be required to prepare a financial summary of cybersecurity expenditures to address the findings of the self-assessment report and submit the report to the Senate Committee on Ways and Means and the House Committee on Appropriations with any confidential information redacted.

The CISO, with input from JCIT and the Joint Committee on Kansas Security (Security Committee), is required to develop a self-assessment report template for agency use. The CISO would be required to provide a summary of the self-assessment reports to JCIT and the Security Committee. The self-assessment reports would not be subject to the provisions of the Kansas Open Records Act. These confidentiality provisions will expire July 1, 2028, unless the Legislature reviews and reenacts the provisions prior to their expiration.

Confidentiality (Section 16)

The bill requires all units of state and local government to consider information collected under this act to be confidential. [*Note*: Current law specifies only information collected by the Executive Branch and KISO should be considered confidential.]

JCIT and IT Project Provisions

JCIT Powers and Duties (Section 2)

The bill requires JCIT to advise and consult on state IT projects that have a significant business risk per ITEC policy. Furthermore, the bill expands the items on which the JCIT is required to make recommendations to Senate Committee on Ways and Means and the House Committee on Appropriations to include IT project requests for proposals (RFPs).

[*Note*: JCIT has been required to make recommendations on implementation plans, budget estimates, and three-year IT plans.]

Definitions (Section 4)

The bill amends the definitions of "business risk," "information technology project," and "information technology project change or overrun."

The term "business risk" is defined as an overall level of risk that is determined through a business risk assessment and includes, but is not limited to, the cost of the project, information security of the project, and other elements determined by ITEC policy.

The bill defines "information technology project" as an effort by a state agency of defined and limited duration that implements, effects a change in, or presents a risk to process, services, security, systems, records, data, human resources, or IT architecture.

The bill amends the definition for "information technology project change or overrun" by replacing the existing $1.0 million threshold with regard to project expenditures with a threshold established per ITEC policy. The definition also includes any IT project that has experienced a change to its presented scope or timeline of more than 10 percent or a change that is significant as determined by ITEC policy.

Submission of Project Documentation

The bill requires an agency to prepare and submit IT project documentation to the Chief Information Technology Officer (CITO) of their respective branch of state government. IT project documentation must:

- Include a financial plan that shows funding sources and expenditures for each project phase;
- Include cost estimates for needs analysis, other investigations, consulting and professional services, data, equipment, buildings, and associated costs;

- Include other items necessary for the project; and
- Be consistent with:
  - ITEC policy, procedures, and project planning methodology;
  - IT architecture for state agencies;
  - State agency data management standards; and
  - The State's Strategic IT Management Plan.

Any IT project with significant business risk, as determined by ITEC policy, must be presented to JCIT by the appropriate CITO.

Prior to Release of RFPs or Bids

Prior to the release of any IT project proposals with a significant business risk, an agency must:

- Submit plans for such project to the appropriate CITO of the branch of government in which their office resides;
- Receive approval on the bid specifications if a project requires the CITO's approval; and
- Submit a project plan summary to members of JCIT, for consultation on the project, and to the Director of Legislative Research.

The bill requires the project plan summary include the project, project plan, IT architecture information, cost benefit analysis, and date the summary was mailed or emailed.

The bill allows JCIT members to communicate with the appropriate branch CITO to seek any additional information regarding the project.

Request for a JCIT Meeting for Review

The bill authorizes JCIT members to request a presentation and review of the proposed IT project in a meeting. To request a meeting, members contact the Director of Legislative Research within seven business days from the specified project submission date (included in the project summary information) and request a meeting for the purpose of receiving such a presentation.

If at least two committee members so request, the Director of Legislative Research has until the next business day after the second request to notify the appropriate CITO, head of the respective agency, and the chairperson of JCIT. Upon receipt of the communication, the chairperson must call a meeting as soon as practicable for such a presentation and provide the appropriate CITO and respective agency head with notice of the time, date, and place of the meeting.

The bill prohibits the agency from releasing any RFPs, or bids for IT projects with significant business risk, without having first advised and consulted with JCIT at a meeting.

Advise and Consult Criteria

The bill deems the "advise and consult" requirement to have been met if fewer than two members notify the Director of Legislative Research with a request for a JCIT meeting within the specified time frame, or the requested meeting does not occur within two calendar weeks of the chairperson receiving the communication from the Director of Legislative Research.

Reporting Requirement Changes (Section 10)

The bill changes the submission date of three-year IT plans from October 1 to November 1 of each year.

The bill also changes, from the Legislative Branch CITO to JCIT, the entity responsible for reviewing all (Legislative, Judicial, and Executive branches) IT project budget estimates and revisions, three-year IT plans, and changes from the state IT architecture. JCIT is responsible for making recommendations on the merit of associated appropriations to the House Committee on Appropriations and the Senate Committee on Ways and Means.

Legislative CITO and JCIT Direction (Section 11)

The bill changes the entity responsible for monitoring execution of reported IT projects from the Legislative Branch CITO to JCIT. The bill would require, under the direction of JCIT, the CITO of each branch of government to provide a report on the implementation of all such projects. The report must include proposed expenditures or any revisions for the current and subsequent fiscal years.

The bill authorizes JCIT to require the head of any agency to advise and consult on the status of IT projects for their respective agency, including any revisions to expenditures for the current or ensuing fiscal years. The bill also authorizes JCIT to provide updates to the House Committee on Appropriations and the Senate Committee on Ways and Means.

The bill requires agency heads to report all IT project changes or overruns to JCIT through the appropriate CITO pursuant to established ITEC policy, prior to the approval of any such change.

ITEC Membership and Quorum Requirements (Section 5)

The bill removes the requirement that certain legislative members appointed to serve on ITEC by the President of the Senate, Minority Leader of the Senate, Speaker of the House, and the Minority Leader of the House, or their designees, be members of the Senate Committee on Ways and Means or the House Committee on Government, Technology and Security or its successor committee.

The bill further clarifies that legislative members of ITEC must remain members of the Legislature in order to retain ITEC membership, and such members would serve until replaced.

The appointing authority can remove, reappoint, or substitute a member at any time, and any vacancy would be filled in the same manner as the original appointment.

The bill specifies that a quorum for actions taken by the council is nine members. Additionally, the bill requires all ITEC actions to be taken by a majority of all members.

Technical and Clarifying Changes (Sections 3, 6, 7, 8, and 12)

The bill makes several technical changes, which includes replacing references to "IT project estimates" with the term "IT projects," and adding the phrase "that are reportable" in certain sections regarding when reports on IT projects must be provided to other entities such as the Division of the Budget and Legislative Coordinating Council.

The bill also clarifies the budget requests of KISO will be separate from those of the Office of Information and Technology Services.

Boards of Cosmetology and Barbering—Body Art Permits and Exemption for Adult Care Homes; HB 2125

HB 2125 amends law related to tattooing, cosmetic tattooing, and body piercing and exempts adult care homes and long-term care units of medical care facilities from statutes governing barbering and cosmetology. The bill authorizes the Kansas State Board of Cosmetology (Board) to create and issue charitable event permits and demonstration permits, requires the Board's administrative proceedings to be conducted in accordance with the Kansas Administrative Procedure Act and be reviewable in accordance with the Kansas Judicial Review Act, allows the Board to issue cease and desist orders to persons who are not license holders, and shortens the time period certain case history cards must be retained by licensees.

Tattooing, Cosmetic Tattooing, and Body Piercing

Administrative Proceedings and Appeals

The bill requires the Board to conduct administrative proceedings in accordance with the Kansas Administrative Procedure Act and makes actions in any administrative proceeding reviewable in accordance with the Kansas Judicial Review Act.

The bill states judicial review shall be taken if a petitioner appealing an order of the Board files a bond with the reviewing court conditioned on payment of assessed costs if the decision of the Board is sustained. The Board will not be required to file any bond.

The bill states if an administrative order of the Board is adverse to an applicant, apprentice, or licensee, costs incurred for any investigation or administrative proceeding may be assessed against the party or parties to the proceeding. If the Board is not the prevailing party, then costs incurred shall be paid from the Cosmetology Fee Fund. The Board is required to include any assessment of costs incurred as part of its final order, along with findings and conclusions in support of the assessment.

The bill defines "costs incurred" to include, but not be limited to:

- Presiding officer fees and expenses, only if the Board has designated or retained the services of an independent contractor or the Office of Administrative Hearings to perform presiding officer functions;

- Costs of preparing any transcripts;

- Reasonable investigation costs;

- Witness fees and expenses; and

- Mileage, travel expenses, and subsistence allowances of Board employees and fees and expenses of agents of the Board who provide services.

Moneys collected by the Board from administrative proceedings will be deposited in the Cosmetology Fee Fund.

Charitable Event Permit

The bill creates a charitable event permit under which licensees will be able to provide tattooing, cosmetic tattooing, or body piercing services at no cost to recipients at the charitable event. The charitable event permit expires 30 days after issuance by the Board.

The bill defines “charitable event” to mean an event conducted for a charitable purpose held at a specific time and location. The bill defines “charitable purpose” to mean any purpose that promotes, or purports to promote, directly or indirectly, the well-being, in general or limited to certain activities, endeavors, or projects, of the public at large, any number of persons, or any humane purpose.

The bill requires the Board to adopt, on or before December 31, 2023, rules and regulations necessary for the charitable event permit.

Demonstration Permit

The bill creates a demonstration permit which authorizes a person to provide tattooing, cosmetic tattooing, or body piercing services at a state or national convention or any other event location approved by the Board, or as a guest artist at an establishment licensed by the Board, if:

- The person performing the services is licensed to perform such profession in another jurisdiction; and

- The license has not been revoked, suspended, or conditioned from the practice of such profession.

The bill requires the Board to accept a valid visa or passport identification number for an applicant who is a citizen of a foreign country, has not been issued a Social Security number, and has not been licensed by another state.

The demonstration permit expires 14 days after issuance by the Board.

The bill requires the Board to adopt, on or before December 31, 2023, rules and regulations necessary for the demonstration permit.

Cease and Desist Orders

The bill amends law to allow the Board to issue cease and desist orders to a person who is not a license holder upon a determination that such person has violated an order or a rule or regulation of the Board, as well as to licensees. Current law allows the Board to issue cease and desist orders only to licensees.

Case History Card Retention

The bill shortens the time period tattoo artists, cosmetic tattoo artists, and body piercers are required to retain case history cards for clients from five years to three years.

Exemptions from Acts Regulating Cosmetologists and Barbers

Exemptions

The bill exempts adult care homes and long-term care units of medical care facilities from:

- Making application to establish a salon or clinic with the Board of Cosmetology;
- Paying the new salon or clinic license fee;
- Submitting to inspection of equipment as to safety and sanitary condition of the premises;
- Holding a salon or clinic license as issued by the Board of Cosmetology; and
- Submitting to inspection by the Kansas Board of Barbering.

Definitions

The provisions apply to an "adult care home," defined in continuing law as any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential healthcare facility, home plus, boarding care home, and adult day care facility, all of which are classifications of adult care homes and are required to be licensed by the Secretary for Aging and Disability Services.

The provisions also apply to a "medical care facility," defined in continuing law as a hospital, ambulatory surgical center, or recuperation center, except that "medical care facility"

does not include a hospice that is certified to participate in the Medicare program and that provides services only to hospice patients.

Refrigerant Prohibition Preemption; HB 2173

HB 2173 prohibits any state agency or local unit of government from prohibiting or restricting the use of any refrigerant approved for use under federal Safe Alternatives Policy (42 U.S. Code Section 7671k) or its enacting regulations when the refrigerant is installed and used in accordance with federal law.

Any rule, regulation, resolution, ordinance, or building code in violation of the prohibition is declared null and void.

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

City Annexation and Fire Districts in Johnson County; HB 2323

HB 2323 regulates the process of property transfer agreements in Johnson County between a fire district and a city, on land annexed by the city.

Process Deadlines

The bill adds the following deadlines to the agreement process:

- The fire district and city have one year from the effective date of the annexation to come to an agreement transferring such land;
  - If an agreement is not submitted to the board of county commissioners within the one-year deadline, the bill requires the land to be detached from the fire district and transferred to the city; and
- The city has 10 days of the effective date of the annexation to notify the fire district of such annexation by certified mail;
  - If the city does not send notice by this deadline, the bill requires the annexed land to continue to be part of the fire district until an agreement transferring land is approved or one year from the date the notice is mailed.

Property Detachment and Transfer

The bill specifies that ownership of any property of the fire district only is transferred in accordance with a written agreement as well; the bill requires the written agreement to be executed by the fire district.

[*Note:* Continuing law requires a negotiated agreement to be reached for any transference of land from the fire district to the city.]

For purposes of taxation, detachment and transfer agreements are effective on January 1 of the immediately following year.

Airport Authority Bonding and State Construction Project Thresholds; HB 2336

HB 2336 amends law pertaining to the issuance of general obligation bonds by airport authorities enacted under the Surplus Property and Public Airport Authority Act and increase the cost thresholds under which a negotiating committee must be convened for state construction projects .

The bill increases the amount of general obligation bonds that may be issued by such boards without approval from $1.0 million to $10.0 million and require amounts in excess of $10.0 million be approved by the relevant board of county commissioners, rather than by general election.

The bill permits a board of county commissioners to approve the issuance of such bonds in an amount in excess of 1.85 percent of the assessed valuation of tangible personal property within the county.

The bill further specifies any issuance of bonds subject to approval by a board of county commissioners can be petitioned by qualified electors of the county to be submitted to a general election in the manner provided for in continuing law.

Additionally, the bill increases the cost thresholds for state building projects at which a negotiating committee must be convened for the selection of architectural, engineering, or land surveying services to $1.5 million and provide for future increases to the thresholds that will begin in FY 2025 and be based upon increases in the consumer price index for all urban consumers as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

[*Note:* Current law sets the cost threshold at $1.0 million for the Department of Administration and $500,000 for all other state agencies.]

The bill also limits the costs applying to the thresholds from the total project costs to the construction costs of the project.

Income Tax Reform; State Food Sales Tax Reduction Acceleration; and Residential Property Tax Exemption Increase; House Sub. for SB 169

House Sub. for SB 169 makes various changes to income, sales, and property tax law. Specifically, the bill:

- Replaces individual income tax brackets with a single rate of 5.15 percent;
- Reduces corporation income and privilege tax rates and discontinues corporate rate reductions required by the Attracting Powerful Economic Expansion Act (APEX);
- Expands the exemption on Social Security income;
- Provides for annual standard deduction increases by a cost-of-living adjustment;
- Accelerates the elimination of state sales and compensating use tax on food and food ingredients and the associated repeal of the food sales tax credit and disposition of revenue changes; and
- Increases the amount of the appraised value of residential property exempt from the statewide uniform 20 mill school finance levy to $60,000.

Individual Income Tax Flat Rate

The bill provides, beginning in tax year 2024, for a single individual income tax rate of 5.15 percent to be applied to all Kansas taxable income in excess of $12,300 for married individuals filing joint returns and $6,150 for all other individuals. Kansas taxable income less than those amounts is not taxed.

Corporation Income and Financial Institutions Privilege Tax Rate Changes

The bill reduces the tax rates applied to corporations and financial institutions.

For corporations, the normal tax rate is set at 3.0 percent beginning in tax year 2024. [*Note:* The normal corporate rate is currently scheduled to be reduced from 4.0 to 3.5 percent in tax year 2024 due to an agreement under APEX.]

For banks, the normal tax rate is reduced from 2.25 percent to 1.94 percent for tax year 2024 and to 1.63 percent for tax year 2025 and all years thereafter.

For trust companies and savings and loan associations, the normal tax rate is reduced from 2.25 percent to 1.93 percent for tax year 2024 and to 1.61 percent for tax year 2025 and all years thereafter.

[*Note:* The surtaxes on corporations and financial institutions are not affected by the bill.]

The bill repeals possible future corporate rate decreases resulting from agreements under APEX.

Social Security Benefit Income Taxation Cliff Phase Out

Beginning in tax year 2023, the bill expands the existing income tax exemption for federally taxable Social Security benefits available to taxpayers with $75,000 or less in federal adjusted gross income (FAGI) to phase out taxpayer eligibility for the exemption through a linear transition formula from $75,000 in FAGI to $100,000 in FAGI.

The bill provides for annual increases of $5,000 to the upper bound of the transition beginning in tax year 2024.

Standard Deduction Increase and Cost of Living Adjustment

The bill, beginning in tax year 2024, provides for all Kansas individual income tax standard deduction amounts to be annually increased by the cost-of-living adjustment determined under Section 1(f)(3) of the Internal Revenue Code.

Food Sales Tax Changes

The bill accelerates the elimination of the state sales and compensating use tax rate on food and food ingredients to January 1, 2024.

The bill raises the percentage of sales tax revenue distributed to the State Highway Fund to 18.0 percent of sales and use tax receipts beginning January 1, 2024.

The bill sunsets the food sales tax credit at the end of tax year 2023.

[*Note:* Under prior law, the rate was scheduled to be reduced to 2.0 percent on January 1, 2024, and to 0.0 percent on January 1, 2025; the proportion of sales and use tax receipts distributed to the State Highway Fund was scheduled to be increased to 18.0 percent beginning January 1, 2025; and the credit was scheduled to be sunset after tax year 2024.]

School Finance Levy Residential Exemption

The bill increases, beginning in tax year 2023, the amount of residential property exempt from the statewide uniform 20 mill school finance levy from $40,000 to $60,000 of appraised value.

A formula to increase the amount of the exemption based upon the statewide average increase in residential valuation over the preceding ten years is delayed in implementation from tax year 2023 to 2024.

TRANSPORTATION AND MOTOR VEHICLES

Buffalo Soldier License Plates; SB 132

SB 132 authorizes a Buffalo Soldier license plate for use on a passenger vehicle or a truck registered for a gross weight of 20,000 pounds or less, for issuance on or after January 1, 2024.

The bill allows the Richard Allen Cultural Center and Museum, Inc., to authorize the organization's logo to be affixed on these license plates. The bill requires a person desiring this license plate to make a logo use royalty payment of between $25 and $100, of which a portion will be dedicated to the construction of the reimagined Frontier Army Museum outside of Fort Leavenworth. The bill requires the vehicle owner or lessee to apply for the new plate at least 60 days prior to their renewal of registration date, on a form provided by the Director of Vehicles (Director), Department of Revenue (Department), after making a logo use royalty payment to the Richard Allen Cultural Center and Museum or the county treasurer. Payment of the regular license fee will be required.

The registration or license plate will not be 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 Richard Allen Cultural Center and Museum to provide to county treasurers an email address for applicant inquiries and, with the approval of the Director, to design the plate.

The bill provides introductory clauses with information about the history of the Buffalo Soldiers and efforts to tell their story.

Under continuing law, Buffalo Soldier license plates will not be issued unless there is a guarantee of an initial issuance of least 250 license plates, and the Richard Allen Cultural Center and Museum is required to submit a nonrefundable amount not to exceed $5,000 to defray costs of the Division of Vehicles (Division) in the Department for developing the distinctive license plate. Continuing law also requires the Division to produce a distinctive license plate for a motorcycle upon request to the Division.

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

Driver Employment Status; HB 2020

HB 2020 amends law pertaining to the employment classification of drivers for motor carriers and transportation network companies (TNCs).

Motor Carrier Drivers

The bill adds to employment-related law that a requirement for or use of a motor carrier safety improvement does not affect or change the worker status of a driver.

The bill defines two terms:

- "Motor carrier safety improvement" means any device, equipment, software, technology, procedure, training, policy, program, or operational practice intended and used primarily to improve or facilitate compliance with traffic or motor carrier safety laws or the safety of the vehicle, the vehicle operator, or a third-party public roadway user; and

- "Worker status" means the classification under state law of a motor vehicle driver who transports property for compensation as an agent, employee, jointly employed employee, borrowed servant, or independent contractor for a motor carrier.

Transportation Network Company Drivers

The bill also establishes conditions in the Kansas Transportation Network Company Services Act for when a driver for a TNC is an independent contractor.

The bill specifies that a driver for a TNC is an independent contractor and not an employee, provided that the TNC:

- Does not determine the hours when the driver must be logged in to its system;

- Does not restrict the driver's ability to use the digital networks of other TNCs;

- Does not restrict the driver from engaging in any other occupation or business; and

- Agrees in writing with the driver that the driver is an independent contractor for the TNC.

The bill limits these provisions to the relationship between TNCs and TNC drivers.

Sale of a Towed Vehicle; Counterfeit Airbags; Vehicle Ground Effect Lighting; HB 2147

HB 2147 creates and amends law to change procedures regarding purchase of a vehicle that had been towed. It also amends the Uniform Act Regulating Traffic on Highways to add law to prohibit counterfeit airbags and to amend law to authorize certain ground effect lighting on vehicles.

Selling an Abandoned or Towed Vehicle

The bill creates law to require a public agency or towing or wrecking service lawfully selling an abandoned or towed motor vehicle to provide a certification to the purchaser that statutory recovery, storage, notification, and verification requirements associated with abandoned or towed vehicles have been satisfied, and that vehicle identification number inspection requirements have been met, beginning January 1, 2024.

The certification of compliance will allow the purchaser of such a vehicle to apply for and receive a certificate of title free and clear of liens, security interests, and encumbrances.

The bill requires the certification to be completed on a form and in a manner approved by the Secretary of Revenue, or the Secretary's designee, and subject to a fee of $20 to be paid by the public agency or towing or wrecking service, to be retained by the county treasurer, Division of Vehicles of the Department of Revenue, or contractor that processes the certification of compliance form. The bill specifies the fee could be passed on to a purchaser or the vehicle's original owner upon reclamation.

The bill amends statutes regarding sale of a vehicle that has been abandoned or towed to require a notice to the owner or lienholder of a towed vehicle to be mailed within 15 calendar days, rather than 10 days, after receipt of verification of the last owner and any lienholders.

The bill also makes conforming amendments to continuing law.

Counterfeit Airbags

The bill creates the crime of knowingly or intentionally manufacturing, importing, distributing, selling, offering for sale, installing, or reinstalling a device intended to replace a supplemental restraint system component in a vehicle if the device is counterfeit, a nonfunctional airbag, or an object not designed in accordance with federal safety regulations for the make, model, and year of the vehicle.

The violation will be a class A nonperson misdemeanor.

The bill defines four terms:

- "Airbag," to mean an inflatable occupant restraint system device that is part of a supplemental restraint system in a vehicle;
- "Counterfeit supplemental restraint system component," to mean a replacement component displaying a mark identical or substantially similar to the genuine mark of a motor vehicle manufacturer or parts supplier without authorization from that manufacturer or supplier;
- "Nonfunctional airbag," to mean a replacement airbag that was previously deployed or damaged, has an electric fault that is detected by the vehicle's diagnostic systems, includes a part or object installed in the vehicle to mislead the owner into believing that a functional airbag has been installed, or is an airbag prohibited by federal law; and
- "Supplemental restraint system," to mean a passive inflatable vehicle occupant crash protection system designed for use in conjunction with active restraint systems (*i.e.*, seat belts) that includes each airbag, installed according to the vehicle manufacturer's design, and all components required to ensure the airbag operates as designed and meeting federal safety standards.

The bill adds these provisions to the Uniform Act Regulating Traffic on Highways.

Ground Effect Lighting

The bill authorizes equipping a motor vehicle with any type of ground effect lighting rather than only neon ground effect lighting, as authorized by current law. The bill makes conforming amendments to specify that no portion of the bulb or lighting fixture, rather than neon tubes, can be visible and makes conforming amendments to the definition of "ground effect lighting," which is lighting that illuminates the ground below the vehicle.

Memorial Highway Designations; HB 2298

HB 2298 designates two portions of highways in honor of deceased Kansans.

The Officer Donald Burton Gamblin Jr Memorial Highway is the portion of I-435 in Johnson County from its junction with Shawnee Mission Parkway north to its junction with Holliday Drive. According to testimony, Officer Gamblin served with the Shawnee Police Department and was a U.S. Army veteran. He was killed by an intoxicated motorist on I-435 during a traffic stop, in July 1991.

The Robert Lessen Memorial Highway is the portion of US-69 in Crawford County from its junction with K-47 in Crawford County to its junction with 650th Avenue. According to testimony, Mr. Lessen was born in Arma, was a U.S. Army veteran who served in World War II and the Korean Warn, owned and worked in an insurance agency in Arma, and served on the committee working for the improvement and expansion of US-69 throughout the 1960s.

The bill requires the Secretary of Transportation to place suitable signs to indicate the designations once, pursuant to continuing law, sufficient moneys have been received from gifts and donations for the cost of placing such signs, plus an additional 50 percent of the initial cost to defray costs for future maintenance or replacement of the signs.

Rail Service Improvement Fund; HB 2335

HB 2335 authorizes the Rail Service Improvement Fund to be used for qualified track maintenance and increases transfers from the State Highway Fund to the Rail Service Improvement Fund from $5.0 million to $10.0 million annually, starting July 1, 2023. Continuing law authorizes use of these funds for financing, acquisition, or rehabilitation of railroad and rolling stock.

The bill amends the definition of "qualified entity" to require a railroad to be a class II or class III railroad, as defined in federal law (and commonly known as short line railroads), and add any owner or lessee industry track, as defined in federal law, located on or adjacent to a class II or class III railroad in Kansas. The bill defines "qualified track maintenance" to mean maintenance, reconstruction, or replacement of railroad track owned or leased in Kansas by a qualified entity as of July 1, 2023; "railroad track" includes roadbed, bridges, industrial leads and side track, and related track structures.

"Back the Blue" and City of Topeka License Plates; Personalized Plates; HB 2346

HB 2346 authorizes "Back the Blue" and City of Topeka distinctive license plates and allows, on and after January 1, 2025, any distinctive license plate to also be a personalized plate.

New Specialized License Plates

The bill authorizes "Back the Blue" and City of Topeka distinctive license plates to be issued to any Kansas resident who is an owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, beginning January 1, 2024. [*Note:* Continuing law also requires the Division of Vehicles (Division), Department of Revenue, to produce a distinctive license plate for a motorcycle upon request from the sponsoring organization.]

The bill requires a $30 law enforcement support fee for each "Back the Blue" plate issued to support the Kansas Chapter of Concerns of Police Survivors (COPS), Inc. For the City of Topeka license plate, the bill requires a flag image payment of between $25 and $100 to be paid to the Greater Topeka Partnership Inc., as the city's designee for the City of Topeka license plate. It also requires a change of designee to be by mutual agreement of the City of Topeka and the Greater Topeka Partnership, Inc.

An applicant for either license plate will be able to apply for the license plate beginning 60 days prior to their renewal of registration date on a form designated by the Director of Vehicles (Director). No license plate or registration issued pursuant to the bill will be transferable to any other person, but the Director could transfer the distinctive license plate from a leased vehicle to a purchased vehicle.

The bill also requires renewals of registrations to be made annually in the manner provided in continuing law. No renewal for the new plates will be allowed until an applicant has paid the county treasurer the appropriate fee.

The bill requires COPS to provide an email address to all county treasurers for an applicant to call for information concerning the application process or the status of the license plate application.

The bill requires the "Back the Blue" license plate to have a background design with an emblem or colors that designate the plate as a "Back the Blue" license plate. The bill states the City of Topeka flag was designed through a community input process managed by the Greater Topeka Partnership, Inc., adopted by the city's governing body in 2019, and no individual or entity has intellectual property rights regarding use of its image.

As a condition of receiving either license plate or subsequent registration renewal, the applicant will be required to provide consent to the Division, authorizing release of the applicant's name, address, law enforcement support fee or image payment amount, plate number, and vehicle type to the State Treasurer and COPS or the City of Topeka.

Development Fees and Minimum Orders

The “Back the Blue” plate established by the bill is exempt from the requirement for distinctive license plate sponsors to submit a nonrefundable amount of up to $5,000 to defray the Division’s costs of developing the plates, but manufacturing and issuance of the plates is conditioned upon receipt of a minimum order of 100 plates with payment of the personalized license plate fee as specified in continuing law. A transfer of $4,000 from the State Highway Fund to the Distinctive License Plate Fund will be made once the minimum number of paid orders has been received.

Under continuing law, City of Topeka license plates will not be issued unless there is a guarantee of an initial issuance of least 250 license plates and a nonrefundable amount not to exceed $5,000 is submitted to defray costs of the Division for developing the distinctive license plate.

Personalized Specialized License Plates

The bill permits, on and after January 1, 2025, any distinctive license plate to also be a personalized plate as prescribed by continuing law. Under the bill, any license plate that is both distinctive and personalized will be subject to a doubling of the fee for a personalized plate, which is $40. The fee will not be doubled if the license plate is one for which eligibility is related to military honors or service or is one of four specialized license plates for which royalty payments go to state entities: Children’s Trust Fund, helping schools, breast cancer research, and support Kansas arts license plates.

WATER

Multi-year Flex Accounts; Water Bank; SB 205

SB 205 amends law concerning water rights, the establishment of multi-year flex accounts, and participation in a water bank.

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

Multi-year Flex Account Participation

The bill requires the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (KDA), to approve a complete application for the establishment of a multi-year flex account (MYFA) that was submitted to the Chief Engineer on or before December 31, 2022, if a water right participating in a water bank meets the requirements of the MYFA statute and would have been approved if not for the water right's participation in a water bank. This portion of the bill sunsets on December 31, 2023.

Prohibition of Participation in a Multi-year Flex Account

The bill prohibits a water right, or any portion of a water right, that has been deposited, enrolled, or placed in a safe deposit account associated with a water bank from enrolling in a MYFA that begins during a calendar year when the water from the water right was withdrawn from a safe deposit account.

The bill also prohibits water from a water right that has been deposited, enrolled, or placed in a safe deposit account from being withdrawn while the water right is enrolled in a MYFA.

Enrollment in a Multi-year Flex Account

The bill states that a water right will be considered enrolled in a MYFA until the end of the calendar year in which the MYFA permit expires, even if the MYFA allocation is exhausted prior to the expiration of the MYFA permit.

Clarification Changes

The bill clarifies language regarding the water users in provisions requiring approval of certain MYFA applications and prohibiting water rights that have been deposited in a water bank safe deposit account from enrolling in a MYFA in certain circumstances.

Groundwater Management District Reports and Plans; HB 2279

HB 2279 adds sections to the Kansas Groundwater Management District Act to require groundwater management districts (GMDs) to submit annual reports to the Legislature and conservation and stabilization action plans to the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (KDA). The bill is part of and supplemental to the Kansas Groundwater Management Act.

Annual Report (Section 1)

The bill adds provisions to require each GMD board to submit a written report on the budget, finances, and activities of the GMD to the House Committee on Water, House Committee on Agriculture and Natural Resources, and the Senate Committee on Agriculture and Natural Resources by January 25 of each year. The bill requires a representative of the GMD board to appear before a legislative committee if requested.

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

- An itemized list of all income and the source from which the income was received, including any grants and interest income earned;
- An itemized list of all expenditures by the GMD board;
- An accounting of all assets held by the GMD board;
- The most recent approved audit prepared in accordance with current law;
- The budget adopted for the current year pursuant to continuing law;
- A detailed description of the activities of the GMD; and
- A detailed statement explaining how the expenditures by the GMD board serve to further the conservation and reduced consumptive use of groundwater, the prevention of economic deterioration, and the stabilization of agriculture in the district or otherwise supported implementation of the GMD's management program.

The bill requires, beginning in January 2025, the report to summarize the action plans and activities undertaken pursuant to action plans and priority areas of concern.

The bill also requires each GMD to annually publish on the GMD's website the annual written report.

Action Plan and Priority Areas of Concern (Section 2)

The bill requires, by July 1, 2024, the board of each GMD to identify all priority areas of concern within each GMD board's district and to set reasonable boundaries for those areas using data from the Kansas Geological Survey or other source approved by the Chief Engineer.

The bill defines "priority areas of concern" to include areas where:

- The estimated usable lifetime of groundwater is 50 years or less or a similar measure of future water availability can be determined based on local water use and water level data; or
- An unreasonable deterioration of the quality of groundwater is occurring.

Priority areas of concern could also include areas where:

- Groundwater levels are declining or have declined excessively;
- The rate of withdrawal of groundwater equals or exceeds the rate of recharge;
- Preventable waste of water is occurring or may occur;
- An unreasonable deterioration of the quality of groundwater may occur; or
- Other areas identified by the GMD board and approved by the Chief Engineer.

The bill requires the GMD board to submit a report to the Chief Engineer after the priority areas of concern are identified that details:

- The priority areas of concern;
- The nature of such concerns; and
- How the areas were identified and developed.

The bill requires each GMD board to conduct public education and outreach in each priority area so the GMD board can develop an action plan to reasonably address the identified concerns in each area based on input from water right owners and users in the area. The bill requires the action plan to be submitted to the Chief Engineer by July 1, 2026.

Once the action plan or subsequent updates to the action plan are submitted, the bill allows the Chief Engineer up to 90 days to review the action plan and identify priority areas of concern.

If the action plan is approved by the Chief Engineer, the Chief Engineer is required to implement any action plan that requires action from the Chief Engineer. Once the GMD's action plan is approved by the Chief Engineer, the GMD board of each district is required to implement the action plan as soon as practicable and incorporate the action plan and priority areas into the GMD's management program at the next annual review.

The bill requires the GMD boards, at least every five years, to review existing priority areas of concern and any action plans previously adopted, and the district at large to identify any new areas that meet the priority area conditions. Upon such review, the GMD board is required to update its priority areas of concern and its action plan as necessary and to submit the findings and any updates to the Chief Engineer.

If the GMD board fails to identify priority areas of concern within the district, fails to submit an action plan to address the concerns or subsequent updates to action plans, or submits a plan that fails to reasonably address the problems within each identified area, the Chief Engineer could:

- Designate priority areas of concern in accordance with provisions descibed above;

- Create an action plan in accordance with provisions described above; and

- Take such corrective actions necessary under the authority granted to the Chief Engineer pursuant to the Kansas Water Appropriations Act and the Kansas Groundwater Management Act to carry out the action plan.

The bill allows the GMD board to request the Chief Engineer review the activities previously completed by the GMD board to determine compliance with some or all of the requirements described above. The bill allows all areas within a district that have adopted a local enhanced management area (LEMA) on July 1, 2023, to be considered in compliance with the requirements described above until the first action plan review.

All areas within a GMD that have an established intensive groundwater use control area (IGUCA) on July 1, 2023, will be considered to be a priority area of concern with an approved action plan in compliance with the requirements described above until reviewed by the Chief Engineer pursuant to a schedule established through rules and regulations.

The bill allows assistance and support from the following agencies to the GMD boards for the achievement of the goals of this section:

- KDA, including the Division of Water Resources, Division of Conservation, and the Chief Engineer;
- Kansas Water Office;
- Kansas Department of Health and Environment;
- Kansas Corporation Commission;
- University of Kansas;
- Kansas Geological Survey;
- Kansas State University;
- Kansas State University Extension System; and
- Local conservation districts.

The bill requires the Kansas Water Authority to consider the efforts of the above agencies to assist the GMDs when recommending appropriations of the State Water Plan Fund.

Land Acquired by a Groundwater Management District (New Section 3)

The bill prohibits, if a GMD owns, purchases, or otherwise acquires land, a member of the GMD board to farm the land for profit unless a request for proposal is issued to the public.

Water Infrastructure Funding and Programs; Senate Sub. for HB 2302

Senate Sub. for HB 2302 establishes funding for the State Water Plan and water infrastructure projects, creates the Water Technical Assistance Fund (Assistance Fund) and the Water Projects Grant Fund (Grant Fund), authorizes the Kansas Water Office (KWO) to provide grants and adopt rules and regulations to establish criteria for grants, updates reporting requirements for the Kansas Water Authority (KWA), and makes technical amendments.

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

Milford and Perry Reservoirs Debt Repayment and Investment (New Sections 1 and 2)

The bill appropriates $52.0 million in FY 2023 from the State General Fund (SGF) to the Water Supply Storage Debt Payment for Milford and Perry Reservoirs Account (Reservoirs Account) in the State Treasury for the water supply storage debt payment (debt payment) on Milford and Perry reservoirs.

The bill requires the State Treasurer, or allows the State Treasurer to direct the Pooled Money Investment Board, to invest all moneys in the Reservoirs Account in U.S. Treasury bills until the interest rate for the bills is equal to or less than the interest rate for the debt payments as determined by the State Treasurer. Upon this determination, the State Treasurer will be required to make debt payments from the Reservoirs Account.

The bill provides a mechanism in FY 2023 to use if the Director of the KWO determines there is a need to call into service the water supply storage in Milford and Perry reservoirs. The State Finance Council will authorize the State Treasurer to immediately make expenditures from the Reservoirs Account for debt payments. The bill declares the State Finance Council action to be a matter of legislative delegation and subject to guidelines in continuing law and authorizes that action to take place during the Legislative Session.

The bill authorizes any unencumbered balance in the Reservoirs Account in excess of $100 on June 30, 2023, to be reappropriated for FY 2024. The bill also reauthorizes the investment of moneys in U.S. Treasury bills, the State Treasurer's determination on interest rates, and the mechanism by which the Director of the KWO will have the ability to call water storage into service.

State General Fund Transfer; State Water Plan Fund; Kansas Water Authority (New Section 3)

State General Fund Transfer to the State Water Plan Fund

On July 1, 2023, the Director of Accounts and Reports will transfer $35.0 million from the SGF to the State Water Plan Fund (SWPF). The bill states it is the intent of the Legislature to provide for the transfer of $35.0 million from the SGF to the SWPF on July 1, 2024; July 1, 2025; July 1, 2026; and July 1, 2027.

[*Note:* The SWPF is a statutory fund that receives two statutory transfers each fiscal year, $6.0 million from the SGF and $2.0 million from the Economic Development Initiatives

Fund (EDIF), unless modified by the Legislature. The bill would not modify the statutory transfers.]

The bill states the SWPF will continue to be appropriated and expended for the purposes prescribed in law, with the following exceptions:

- If an appropriation is made for any fiscal year, as described above for the succeeding five fiscal years, on July 1 of such fiscal year or as soon thereafter when moneys are available:
  - $5.0 million will be transferred from the SWPF to the Assistance Fund established by the bill; and
  - $12.0 million will be transferred from the SWPF to the Grant Fund established by the bill.

Sunset

The bill sunsets these appropriation and transfer provisions on July 1, 2028. All moneys in and liabilities of the two funds established by the bill will be transferred to the SWPF, and the two funds established by the bill will be abolished.

Kansas Water Authority Recommendations to the Legislature

Salaries. The bill allows the KWA to recommend to the Legislature an appropriation of up to 10 percent of the unencumbered balance of the SWPF to be used to supplement the salaries of existing state agency full-time equivalent (FTE) employees and for funding new FTE positions created to implement the State Water Plan. The bill allows moneys from the appropriation to be used to supplement existing positions, but the moneys cannot be used to replace SGF or fee fund moneys or other funding for positions existing on July 1, 2023.

FTE positions. The bill lists the eligible FTE positions for which moneys can be used to include engineers, geologists, hydrologists, environmental scientists, attorneys, resource planners, grant specialists, and any other similar positions.

Conservation district salaries. The bill allows the KWA to recommend that moneys be used to supplement salaries if at least two conservation districts present a joint proposal to the KWO for positions to provide shared services to the districts involved in the proposal.

Non-profit entities. The KWA will encourage funding requests from state and local entities that cooperate with qualified non-profit entities on projects that provide a direct benefit to water quantity and quality, including water infrastructures that are both natural and man-made, and include matching funds from non-state sources.

Stockwater fees. The bill requires, for FY 2024 through FY 2028, the priority of funds collected and remitted to the SWPF on stockwater use to be used for stockwater conservation projects, and the type and scope of such projects will be identified by the KWO in the formulation of the SWPF.

National park site, state historic site. The KWA may direct the KWO to provide funding from the Assistance Fund or Grant Fund for the improvement of water infrastructure in an unincorporated area related to or serving a national park site or state historic site if:

- The request for funding is made by a non-profit organization or state agency that is willing to administer the moneys and oversee the project; and
- The KWA deems such applicant capable of successfully managing the project.

Upon receipt of such request, the KWO may award moneys at its discretion in any fiscal year before July 1, 2028.

Reporting requirements. The bill states that all reporting requirements in the SWPF law will continue and apply to the two funds established in the bill.

Water Technical Assistance Fund (New Section 4)

The bill establishes the Assistance Fund, which will be administered by the KWO and provides that when the unencumbered balance of the Assistance Fund exceeds $15.0 million, the excess amount will be transferred from the Assistance Fund to the SGF.

The bill requires the KWO to use the Assistance Fund to provide grants for planning, engineering, management, and other technical assistance that could be necessary in the development of plans for water infrastructure projects or for processing the grant and loan applications for such water infrastructure projects. The KWO may offer services directly, provide funding to other organizations to provide services at no cost to a municipality or special district related to water, or provide grants directly to applicants to cover expenses related to the hiring of technical assistance.

The bill allows any municipality or special district related to water organized under state law to apply for a grant. The bill authorizes KWO to award grants to the applicants. Municipalities with fewer than 2,000 residents will be prioritized for awarding full grants. Watershed districts, conservation districts, groundwater management districts, and all special districts related to water will not be prioritized for awarding full grants.

The bill requires the KWO to adopt rules and regulations to establish any necessary criteria for administering the Assistance Fund and awarding grants for technical assistance. The bill requires the criteria to include, but not be limited to, factors applicable to:

- Municipalities of different population sizes, including the prioritization of small municipalities as required by the bill;
  - Factors may include, but not be limited to, public health, socio-economic factors, and the ability for a municipality to repay any loans without grant assistance; and
- Special districts, such as watershed districts, conservation districts, groundwater management districts, rural water districts, and any other similar districts formed for a special or single purpose related to water.

The bill prohibits any single awarded grant for technical assistance to exceed $1.0 million unless specified by an appropriation act of the Legislature.

Water Project Grant Fund (New Section 5)

The bill establishes the Grant Fund, which will be administered by the KWO and provides that when the unencumbered balance of the Grant Fund exceeds $35.0 million, the excess amount will be transferred from the Grant Fund to the SGF.

The bill allows the KWO to provide full or partial funding for grants to any municipality or special district related to water that is established under state law for the following:

- Construction, repair, maintenance, or replacement of water-related infrastructures and any related construction costs;
- Matching moneys for grant or loan applications for water-related infrastructure projects; and
- Grants that could be applied to an outstanding loan balance from the existing Public Water Supply Loan Fund or Kansas Pollution Control Revolving Fund.

The bill requires the KWO to adopt rules and regulations to establish any necessary criteria for grants from the Grant Fund. The bill requires the rules and regulations to include any necessary criteria that may be applied to the selection of projects with outstanding loan balances from the existing Public Water Supply Loan Fund or Kansas Pollution Control Revolving Fund.

The criteria will be based on the following factors:

- The planned construction on the project with the outstanding loan balance being complete;
- The municipality or special district having made at least five years of payments on the project loans;
- Awarding grants that provide repayment of up to:
    - 90 percent of any remaining project loan balance for cities with fewer than 2,000 residents;
    - 75 percent of any remaining project loan balance for cities with fewer than 5,000 residents;
    - 50 percent of any remaining project loan balance for cities with fewer than 10,000 residents; and
    - 25 percent of any remaining project loan balance for all other cities in Kansas; and

- Any other relevant criteria including, but not limited to, the socio-economic status of the residents of any municipality, public health, and the ability of any municipality to repay a loan without further assistance.

The bill prohibits any single grant awarded for a project greater than $8.0 million unless specified by an appropriation of the Legislature.

The bill requires the KWO and Kansas Department of Health and Environment to coordinate the sharing of information about applicants to the Public Water Supply Loan Fund and the Kansas Pollution Control Revolving Fund, and requires the agencies to take into consideration approval or likely approval of a grant by the KWO when considering the eligibility of any municipality to receive moneys from the funds.

Kansas Water Authority Report (Section 6)

The bill requires the KWA to include in its annual report to the Governor and Legislature an account of all moneys expended from the Assistance Fund and the Grant Fund each year.

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