

**SUPPLEMENT II TO  
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 from April 26, 2023 through adjournment. 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 on March 29, was distributed on March 31, 2023. An updated supplement to the first Preliminary Summary was distributed on April 13, 2023.

*Highlights*, a summary of major legislation in newsletter form, will be prepared and 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](http://kslegresearch.org).

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## CORRECTIONS AND JUVENILE JUSTICE

### **Evidence-based Program Account Expenditures; Agency Collaboration in Juvenile Offender and CINC Cases; HB 2021**

**HB 2021** creates and amends law regarding the assessment of and provision of services to children in the child welfare and juvenile justice systems; overall case length limits and community-based graduated sanctions under the Revised Kansas Juvenile Justice Code (Juvenile Code); exchange of confidential data within the juvenile justice system; and use of funds from the Evidence-based Programs Account (Account) of the State General Fund. The bill also changes the criteria used to admit youths to a juvenile crisis intervention center by adding definitions for “behavioral health crisis” and changing the phrase “mental health crisis” to “behavioral health crisis” in various statutes.

### ***Risk and Needs Assessments for Children Exhibiting Criminogenic Behaviors***

The bill requires, on or before October 1, 2023, the Secretary for Children and Families to identify an evidence-based risk and needs assessment to administer to children identified as exhibiting behavior that could lead to juvenile offender charges related to physical violence, aggression, damage to property, or use of life-threatening drugs during the course of a child in need of care (CINC) case. The bill directs the Secretary for Children and Families to administer the assessment and requires the Secretary to collaborate with the Secretary of Corrections to allow these identified children to participate in programs funded by the Account. The bill clarifies such assessment is part of the child’s official CINC file and cannot be admitted to evidence during the course of a proceeding under the Juvenile Code. The bill requires the Secretary for Children and Families to report on the implementation of this section, and to provide the assessment used to the Joint Committee on Corrections and Juvenile Justice Oversight (JCCJJO) on or before January 1, 2024.

### ***Standardized Risk and Needs Assessments for Juvenile Offenders***

The bill directs the Secretary of Corrections to ensure when a juvenile is placed in detention, the juvenile:

- Receives a standardized risk and needs assessment within 72 hours, or has appropriate updates made to such assessment if one has already been conducted;
- Receives an updated or completed case plan within 48 hours after such assessment has been conducted or updated; and
- Has access to behavioral health services, mental health services, and substance use treatment disorder services while in detention.

The bill requires the Secretary of Corrections to coordinate with court services, community corrections, and juvenile detention centers to provide the services described above in a timely manner, and, for a juvenile in the custody of the Department for Children and Families (DCF), to coordinate with the Secretary for Children and Families to provide such

services. The cost of assessments conducted or services provided to juvenile offenders may be assessed to the Kansas Department of Corrections (KDOC).

The bill also directs the Secretary of Corrections to collect data regarding these assessments and services and report findings to JCCJJO before July 1 of each year.

### ***Collaboration Between Agencies***

The bill amends the Revised Kansas Code for Care of Children (CINC Code) and the Juvenile Code to require, if a child, juvenile, or juvenile offender is eligible to receive services from DCF, KDOC, or the Judicial Branch, that these agencies collaborate to provide such services. The bill states that nothing in the CINC Code provision or in the Juvenile Code precludes the eligible child from accessing services by the listed agencies or any other state agency if the child is otherwise eligible for services.

In the Juvenile Code, this provision replaces an existing provision requiring collaboration between KDOC and the Secretary for Children and Families to furnish services.

### ***Juvenile Code Case Length***

The bill amends the overall case length limits for juvenile offenders. The court may extend the overall case length limit to allow for completion of an evidence-based program if the juvenile's repeated, intentional effort to delay is the reason for failure to complete the evidence-based program, as reported by the evidence-based services provider. Such extensions may only be granted incrementally.

### ***Community-based Graduated Sanctions for Violations of Sentence Disposition by Juveniles***

The bill amends law governing community-based graduated responses to certain violations of juvenile sentencing dispositions including probation, conditional release, and condition of sentence by juveniles to require the court services officer or community correctional services officer to immediately notify the court and submit a written report showing in what manner the juvenile has violated such sentencing disposition.

The bill also amends the section to allow a judge to commit a juvenile, who is on probation, to detention for a probation violation if the judge makes a finding that the juvenile is demonstrating escalating use of physical violence, aggression, weapons, damage to property, or life-threatening substances. The detention period may not exceed 24 hours for the first violation, 48 hours for the second violation, and 15 days for the third or subsequent violation.

### ***Confidential Data Exchange System***

The bill requires KDOC to develop a system, or contract with an entity to develop an electronic records system not maintained by KDOC, by July 1, 2025, to facilitate the exchange of confidential information among all parts of the juvenile justice system. The bill requires any contracted system to include a verification system that is operated by KDOC for the purpose of verifying the authenticity and validity of electronic records and specifies such electronic records

have the same legal effect as paper records. KDOC is required to report to the JCCJJO, House Committee on Appropriations, Senate Committee on Judiciary, Senate Committee on Ways and Means, and House Committee on Corrections and Juvenile Justice on the progress of the development by the first day of the 2024 Legislative Session.

### ***Amendments to Evidence-based Programs Account***

The bill amends law governing the Account to expand allowable expenditures to include evidence-based community programs and practices for:

- Juvenile offenders and their families [*Note*: Current law does not allow expenditures for juvenile offenders' families];
- Juveniles experiencing a behavioral health crisis and their families [*Note*: Current law allows expenditures for juveniles experiencing a mental health crisis];
- Children who have been administered a risk and needs assessment and have been identified as exhibiting criminogenic behaviors as described in the bill; and
- Grants under provisions described below.

The bill expands those eligible to administer such programs and practices to include:

- Community mental health centers;
- Community health centers;
- The Youth Advocate Program;
- Jobs for America's Graduates—Kansas Transition Services; and
- Any other community-based service provider offering evidence-based community programs.

The bill requires the Secretary of Corrections to develop and implement a grant program with the goal of implementing evidence-based community programs and promising practices throughout the state, subject to the availability of funding in the Account after other expenditures for evidence-based programs are made. The Secretary is required to adopt grant requirements and to evaluate grant-funded programs to ensure the program is being delivered as intended. Any provider of evidence-based community programs for juveniles may apply for a grant, and priority is given to any county that demonstrates low availability of evidence-based community programs for juveniles. Child welfare case management providers are not eligible to receive grants through the Account.

The bill requires expenditures made from the Account to be made promptly and on a rolling basis to develop and implement evidence-based community programs as services are needed throughout the state.

### ***Definition of Behavioral Health Crisis***

This bill defines “behavioral health crisis” in the CINC Code to mean “behavioral and conduct issues that impact the safety or health of a child, members of the child’s household or family or members of the community, including, but not limited to, non-life threatening mental health and substance abuse concerns.” A definition, identical except for the use of the term of “juvenile” rather than “child,” is also added to the Juvenile Code and to a statute regarding juvenile crisis intervention centers.

The bill amends statutes relating to law enforcement officers taking children or juveniles into custody and the court directing temporary custody to refer to behavioral health crisis instead of mental health crisis.

### ***Juvenile Crisis Intervention Centers***

This bill amends the statute establishing juvenile crisis intervention centers to add substance abuse services to the services to be provided by a juvenile crisis center. The bill also adds a behavioral health condition as a reason a juvenile could be determined to be likely to cause harm to self or others.



## CRIMES AND CRIMINAL MATTERS

### **Battery Against a Health Care Provider; Fentanyl-related Definitions and Penalties; Other Crimes; Attorney General Prosecutorial Authority; SB 174**

**SB 174** amends the crime of battery to define battery against a health care provider; amends the definitions of manufacture and drug paraphernalia; adds a definition of fentanyl-related controlled substances; increases the penalty for the unlawful manufacturing of fentanyl; amends the elements of the crimes of burglary and aggravated burglary to add domestic battery and violation of a protection order; amends the crime of interference with law enforcement to add conduct constituting the crime; creates special sentencing rules related to the manufacture and distribution of fentanyl; and amends law concerning the prosecutorial authority of the Attorney General.

#### ***Battery of a Health Care Provider***

The bill amends the crime of battery to define battery against a health care provider as a battery committed against a health care provider while such provider is engaged in the performance of such provider's duty. "Healthcare provider" is defined as an individual who is licensed, registered, certified, or otherwise authorized by the state of Kansas to provide health care services in this state.

Battery against a health care provider is a class A person misdemeanor.

#### ***Definitions of Manufacture, Drug Paraphernalia, Fentanyl-related Controlled Substances***

The bill amends the definition of "manufacture" to include placing a controlled substance into a pill or capsule form.

The bill amends the definition of "drug paraphernalia" to exclude tests used to detect the presence of fentanyl, ketamine, or gamma-hydroxybutyric acid (GHB).

The bill adds the definition of "fentanyl-related controlled substances" in the Kansas Criminal Code to include certain Schedule I and Schedule II controlled substances, as specified by the bill. The bill also makes a technical amendment to reconcile amendments made by the 2022 Legislature by removing the definition of the term "possession" from KSA 21-5701 and by repealing KSA 21-5701b.

#### ***Increased Penalty for the Unlawful Manufacture of Fentanyl***

The bill amends the crime of manufacturing a controlled substance to make the manufacturing of a fentanyl-related controlled substance a drug severity level 1 felony, increased from a drug severity level 2 felony.

#### ***Crimes of Burglary and Aggravated Burglary***

The bill amends the elements of the crimes of burglary and aggravated burglary to add domestic battery and violation of a protection order to the list of crimes that a person can have

the intent to commit when they enter or remain in one of the locations specified in the crimes of burglary and aggravated burglary.

[*Note:* Under continuing law, the crimes of burglary and aggravated burglary require a person to have the intent to commit a felony, theft, or sexually motivated crime within a protected location.]

### ***Crime of Interference with Law Enforcement***

The bill amends the crime of interference with law enforcement to add conduct constituting the crime. The crime includes knowingly fleeing from a law enforcement officer by means other than operation of a motor vehicle, when:

- The officer has reason to stop the person under continuing law in the Kansas Code of Criminal Procedure; and
- The officer has given the person visual or audible signal to stop.

The offense is classified as one of the following:

- A class A nonperson misdemeanor in the case of a misdemeanor, or resulting from any authorized disposition for a misdemeanor, or a civil case;
- A severity level 7 nonperson felony in the case of a felony, or resulting from parole or any authorized disposition for a felony; or
- A severity level 5 nonperson felony if the offender discharged or used a firearm while fleeing.

### ***Special Sentencing Rules Related to Manufacture or Distribution of Fentanyl***

The bill creates a special sentencing rule for the penalty for the crime of manufacturing material that contains any quantity of fentanyl-related controlled substances; it includes presumptive imprisonment and two times the maximum duration of the presumptive sentence term. The sentence is not to be considered a departure and will not be subject to appeal.

The bill also creates a special sentencing rule for the penalty for the crime of manufacturing or distributing a controlled substance with the same penalty as described in the above rule. This rule applies if the trier of fact makes a finding beyond a reasonable doubt that the controlled substance involved, because of its appearance or packaging, was likely to be attractive to minors.

### ***Prosecutorial Authority of the Attorney General***

The bill amends law concerning the prosecutorial authority of the Attorney General. The bill authorizes the Attorney General, concurrently with a county or district attorney, to prosecute:

- Theft, under continuing law in the Revised Kansas Criminal Code;
- A violation of the Kansas Racketeer Influenced and Corrupt Organizations Act; and
- An attempt, conspiracy, or criminal solicitation of such crimes when the alleged course of conduct occurs in two or more counties.

**Criminal Discharge of a Firearm; Special Sentencing Rules; SB 123 Program Eligibility; Postrelease Supervision Time; Senate Sub. for HB 2010**

**Senate Sub. for HB 2010** updates certain cross references to statutes that have been repealed; amends the definition of criminal discharge of a firearm; creates special sentencing rules related to the use of firearms; amends law concerning eligibility for certain offenders for the nonprison sanction of placement in a certified drug abuse treatment (SB 123) program; and amends law concerning the tolling of postrelease supervision time.

***Statutory Cross References (Sections 1, 5, and 6)***

The bill updates statutory cross references in statutes concerning:

- Jury instructions for persons who lack the required mental state to commit a crime;
- Annual hearings on the continued commitment of persons who were found to lack the required mental state to commit a crime; and
- Municipal zoning of group homes.

***Definition of Criminal Discharge of a Firearm (Section 2)***

The bill amends the definition of criminal discharge of a firearm to include the reckless and unauthorized discharge of any firearm at a motor vehicle in which there is a human being, regardless of whether the offender knows or has reason to know that a human being is present.

***Special Sentencing Rules (Section 3)***

***Violation of Criminal Possession of a Weapon by a Convicted Felon***

The bill creates a special sentencing rule stating that, notwithstanding statutory provisions regarding lesser and included crimes or any other provisions of law to the contrary, the sentence for a violation of criminal possession of a weapon by a convicted felon is a presumptive term of imprisonment, required to be served consecutively to any other term(s) of imprisonment imposed. The rule is triggered if the trier of fact finds beyond a reasonable doubt that:

- The weapon the offender possessed during such violation was a firearm; and
- Such firearm was used by the offender during the commission of any violent felony, as defined by the bill.

The bill specifies that this sentencing rule does not apply to an offender who is prohibited from possessing a weapon as a result of a juvenile adjudication.

The bill defines “violent felony” to mean the following crimes as defined in statute:

- Capital murder or first- or second-degree murder;
- Voluntary manslaughter;
- Kidnapping, when the crime involves holding a person for ransom or as a shield or hostage, or aggravated kidnapping;
- Aggravated assault, when committed with a deadly weapon, or aggravated assault of a law enforcement officer, when committed with a deadly weapon;
- Aggravated battery, when the conduct causes great bodily harm or disfigurement, or when the conduct causes bodily harm that could cause great bodily harm, disfigurement or death or aggravated battery against a law enforcement officer, unless the conduct involves bodily harm caused with a motor vehicle;
- Mistreatment of a dependent adult or mistreatment of an elder person, when the conduct involves infliction of physical injury or unreasonable confinement or punishment;
- Rape;
- Aggravated criminal sodomy;
- Abuse of a child, unless the acts constituting the crime are committed recklessly;
- Any felony offense under statutes prohibiting the unlawful manufacturing, cultivation, or distribution of controlled substances;
- Treason;
- Criminal discharge of a firearm, when the acts constituting the crime are committed in the presence of another human being;
- Fleeing or attempting to elude a police officer;

- Any felony that includes the domestic violence designation, as determined by the trier of fact under the relevant statutory procedure; or
- Any attempt, conspiracy, or criminal solicitation of any felony offense described above.

A whereas clause designates amendments made in this section as the “Reduce Armed Violence Act.”

#### *Violation of Criminal Discharge of a Firearm*

The bill creates a special sentencing rule for a violation of criminal discharge of a firearm involving the reckless and unauthorized discharge of a firearm at a dwelling, building, structure, or motor vehicle.

The rule is triggered if the trier of fact makes a finding beyond a reasonable doubt that the offender discharged a firearm and that the offender knew or reasonably should have known a person was present at the above-mentioned locations.

When the person present is 14 years of age or older, the sentence is a presumptive term of imprisonment per the Kansas Sentencing Guidelines, plus 60 months of additional imprisonment, to be served consecutively to any other term(s) of imprisonment.

When the person present is less than 14 years of age, the sentence is a presumptive term of imprisonment per the Kansas Sentencing Guidelines plus 120 months of additional imprisonment, to be served consecutively to any other term(s) of imprisonment.

The bill provides that a sentence imposed under both special rules is not to be considered a departure sentence and is not subject to appeal and, for a sentence imposed for a violation of criminal possession of a weapon by a convicted felon, no other sentence may be permitted.

#### ***SB 123 Program Eligibility (Section 4)***

The bill amends law to expand eligibility for certain offenders for the nonprison sanction of placement in a certified drug abuse treatment (SB 123) program. [*Note: SB 123 (2003) created mandatory community-based supervision and substance abuse treatment for certain nonviolent offenders convicted of drug possession.*]

The bill amends law to allow a defendant convicted of a nonperson severity level 7, 8, 9, or 10 felony with a criminal history score of C through I to participate in a certified drug abuse treatment program if the defendant has no prior convictions for manufacturing a controlled substance, cultivating or distributing a controlled substance, or unlawful acts involving proceeds from drug crimes.

The bill amends law to allow a defendant convicted of a nonperson severity level 7, 8, 9, or 10 felony with a criminal history score of A or B to be able to participate in a certified drug abuse treatment program if the defendant has no prior convictions for manufacturing a

controlled substance, cultivating or distributing a controlled substance, or unlawful acts involving proceeds from drug crimes, and:

- The person felonies in the defendant's history are nondrug severity level 8 or lower, and
- The court finds that the safety of the members of the public will not be jeopardized by the placement of the defendant in a certified drug abuse treatment program.

***Tolling of Postrelease Supervision Time (Section 7)***

The bill amends a statute governing parole, conditional release, and postrelease supervision to specify that the service of postrelease supervision time shall not toll, except as provided in the statute governing violations of conditions of release.

## EDUCATION

### **K-12—Education Appropriations and Other Provisions; House Sub. for SB 113**

**House Sub. for SB 113** makes appropriations for the Kansas State Department of Education (KSDE) for FY 2023, FY 2024, and FY 2025; amends the Kansas School Equity and Enhancement Act (KSEEA) with regard to the calculation of State Foundation Aid and specific weightings; extends the high density at-risk weighting sunset; and amends various provisions of law related to K-12 education.

The bill also reduces the eligibility requirements for students who wish to take part in the Low-Income Students Scholarship Program, as well as increases the tax credit provision of the Low-Income Students Scholarship Program. In addition, the bill authorizes certain nonpublic school students to participate in activities regulated by the Kansas State High School Activities Association (KSHSAA).

The bill extends the 20 mill *ad valorem* tax levy for two years and provides for the disposition of school district real property and allows the Legislature the right of first refusal to acquire the property.

### ***Appropriations for FY 2023, FY 2024, and FY 2025***

The bill makes appropriations for the KSDE.

#### *FY 2023*

For KSDE, the bill:

- Appropriates \$5.9 million from the State General Fund (SGF) for Kansas Public Employees Retirement System (KPERs) school employer contributions of unified school districts (USDs);
- Appropriates \$541,000 from the SGF for Supplemental State Aid;
- Deletes \$8.0 million SGF from the KPERs non-USDs account; and
- Deletes \$79.3 million from State Foundation Aid.

#### *FY 2024*

For KSDE, the bill appropriates \$6.3 billion, including \$4.1 billion SGF. This amount includes \$5.2 billion, including \$4.1 billion SGF, for the major categories of school finance, KPERs-USDs, and KPERs non-USDs.

**State General Fund.** Appropriations from the SGF include the following:

- \$14.7 million for operating expenditures;

- \$47.9 million for State Foundation Aid;
- \$577,309 for Supplemental State Aid;
- \$80,000 for the Center for READing;
- \$29.8 million for KPERS non-USDs;
- \$531.9 million for KPERS-USDs;
- \$2.8 million for the ACT and WorkKeys Assessments Program;
- \$528.0 million for Special Education;
- \$1.5 million for Career and Technical Education Transportation;
- \$300,000 for the Juvenile Transitional Crisis Center Pilot program;
- \$67,700 for Education Commission of the States dues;
- \$10,000 for the School Safety Hotline;
- \$5.0 million for School Safety and Security Grants;
  - Includes language to allow acquisition of naloxone hydrochloride products as an allowable expenditure in FY 2024;
- \$5.1 million for the School District Juvenile Detention Facilities and Flint Hills Job Corps Center Grants;
- \$2.5 million for School Food Assistance;
- \$1.3 million for the Mentor Teacher Program;
- \$110,000 for Educable Deaf-blind and Severely Handicapped Children's Programs Aid;
- \$360,693 for Governor's Teaching Excellence Scholarships and Awards;
- \$2.4 million for Supplemental State Aid;
- \$1.8 million for Professional Development State Aid;
- \$1.0 million for Computer Science Education Advancement Grants; and
- \$40,000 for the Computer Technical Education Pilot.



The bill deletes \$13.5 million for the Mental Health Intervention Team Pilot program. [Note: SB 25 appropriates this amount for FY 2024 to the KSDE for the Mental Health Intervention Team Pilot program.]

The bill authorizes school districts to expend School Safety and Security Grants for acquisition of communication devices and equipment necessary for effective communication among law enforcement, security services, and school, in addition to continuing allowable purposes.

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

- \$375,000 for the Children’s Cabinet Accountability Fund;
- \$23.7 million for CIF grants;
- \$9.4 million for the Parent Education Program, also known as Parents as Teachers;
- \$4.2 million for the Pre-K Pilot Program and language to reappropriate the unencumbered ending balance;
- \$1.4 million for Early Childhood Infrastructure and language to reappropriate the unencumbered ending balance; and
- \$1.5 million for the Dolly Parton Imagination Library and language to reappropriate the unencumbered ending balance.

**Transfers.** The bill provides for the following transfers:

- \$50,000 on July 1, 2024, or as soon as moneys are available, from the Family and Children Trust Account of the Family and Children Investment Fund of KSDE to the Communities in Schools Program Fund of KSDE;
- \$550,000 on March 30, 2024, and \$550,000 on June 30, 2024, from the State Safety Fund to the SGF to reimburse costs associated with services provided by other state agencies on behalf of KSDE;
- \$81,250, quarterly, from the State Highway Fund of the Department of Transportation to the School Bus Safety Fund of KSDE;
- An amount certified by the Commissioner of Education from the Motorcycle Safety Fund of KSDE to the Motorcycle Safety Fund of the State Board of Regents, to cover costs of driver’s license programs conducted by community colleges; and

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

The bill appropriates \$268,534 from the Kansas Endowment for Youth Fund for the Children’s Cabinet administration.

The bill also authorizes the Commissioner of Education to transfer any part of an SGF appropriation for KSDE to another SGF appropriation for KSDE for FY 2024.

The bill appropriates \$43.8 million from the Expanded Lottery Act Revenues Fund (ELARF) for KPERS non-USDs.

**Curriculum.** The bill requires a survey to be conducted and a list of all school districts that used curriculum and training materials which include the three-cueing systems model of reading or visual memory program in the preceding school year to be provided to the Senate Committee on Education, House Committee on Education, and the K-12 Education Budget Committee.

#### *FY 2025*

**State General Fund.** For KSDE, the bill appropriates the following from the SGF:

- \$2.8 billion for State Foundation Aid;
- \$590.0 million for Supplemental State Aid; and
- \$535.5 million for Special Education Services Aid.

The bill also authorizes expenditures from the State School District Finance Fund and the Mineral Production Education Fund.

#### ***Disposition of School District Real Property; Legislature’s Right to Refuse***

The bill amends and creates law pertaining to USD real property to grant the Legislature the right of first refusal. The bill also creates a notification process of a school district board of education’s intentions to dispose of a school building.

#### *Notice of Disposition*

First, a school district board of education is required to submit written notice of its intention to dispose of a building to the Legislature, by filing a notice with the Chief Clerk of the House and the Secretary of the Senate. The bill requires the notice to include:

- A description of the school district’s use of the building immediately prior to the decision to dispose;
- The reasons for the building’s disuse and the decision to dispose of the building;

- The legal description of the real property to be disposed of; and
- A copy of the resolution adopted by the board of education.

The bill provides for the Legislature’s review, with timing depending on whether the Legislature is in session:

- If the notice is received during the regular session, the Legislature has 45 days to adopt a concurrent resolution stating the Legislature’s intention for the State to acquire such building; or
- If the notice is received when the Legislature is not in session, the Legislature has 45 days from the commencement of its next regular session to adopt the concurrent resolution regarding the Legislature’s intentions.

The bill prescribes the information to be stated in the concurrent resolution, including provisions naming the state agency that intends to acquire the building and the intended use of the building.

The bill further provides that, if the Legislature does not adopt a concurrent resolution within the 45-day period, the school district is allowed to proceed with the disposition of the school district building in accordance with state law.

If the Legislature adopts a concurrent resolution within the 45-day period, the state agency named in the resolution has 180 days to complete the acquisition of the school district building and take title to the real property. Upon the request of the acquiring state agency, the Legislative Coordinating Council is permitted to extend the 180-day period for a period of no more than 60 days. During the 180-day period and any authorized extension, a board of education is prohibited from selling, gifting, leasing, or otherwise dispensing of the building or any real property described in the required written notice. If the state agency does not take title within the 180-day period or its extension, the school district is permitted to proceed with disposition of the building.

### ***Nonpublic School Students Participation in KSHSAA Activities***

The bill allows any nonpublic school student to participate in any activities offered by a school district that are regulated, supervised, promoted, and developed by KSHSAA, as long as the student:

- Is a resident of the school district;
- Is enrolled and attending a nonpublic elementary or secondary school;
- Complies with the requirements of KSA 72-6262 and amendments thereto (health-related requirements); and
- Pays any fees required by the school district for participation in such activity.

The school district board of education could require a nonpublic school student who participates in an activity to enroll or complete a particular course as a condition of participation, if such requirement is imposed upon all other students who participate in such activity. Under the bill, KSHSAA could not prohibit any such student from participating in any activity available to such student as part of the student's primary enrollment and attendance at a nonpublic school. [Note: The provisions pertaining to nonpublic school student participation take effect on July 1, 2023.]

### ***Special Education and Related Services Funding Task Force***

The bill outlines the topics to be studied by the Special Education and Related Services Funding Task Force (Task Force), provides for the appointment and compensation of Task Force members, establishes the frequency and location of meetings, and requires a report to the Legislature.

#### *Task Force Study Topics*

The Task Force is required to study and make recommendations for changes in the existing formula for the funding of special education and related services. In doing so, the Task Force is required to conduct hearings in order to receive and consider suggestions from subject matter experts and the public at large.

The Task Force is required to submit reports to the Legislature regarding the work and recommendations of the Task Force on or before January 14 of each year.

#### *Organization of Task Force*

##### *Membership*

The Task Force consists of the following eleven members:

- Two members appointed by the Speaker of the House of Representative;
- Two members appointed by the President of the Senate;
- One member appointed by the Minority Leader of the House of Representatives;
- One member appointed by the Minority Leader of the Senate;
- One member appointed by the State Board of Education;
- Two members appointed by KSDE who are professionals in the field of special education and related services;
- One member appointed by KSDE who is professional in early childhood development services and provides services for a tiny-K program; and

- One member who is a parent of a student who receives special education services. The appointment is for one year, and responsibility for the appointment alternates between the Speaker and the President.

The bill requires the members of the Task Force to be appointed on or before July 1, 2023. Vacancies on the Task Force are filled by appointment in the manner provided for the original appointment.

#### *Task Force Leadership*

The bill requires the Speaker of the House of Representatives to designate one of their appointments to call the first meeting of the Task Force. The chairperson and vice-chairperson of the Task Force are elected by the Task Force members.

#### *Compensation*

If approved by the Legislative Coordinating Council, Task Force members attending meetings authorized by the Task Force receive compensation as provided under KSA 75-3223(e) for members of statutory boards, except for Task Force members employed by a state agency who are reimbursed by such state agency.

#### *Meetings*

The Task Force is authorized to meet in an open meeting at any time and at any place in the state upon the call of the chairperson. A majority of the voting members constitutes a quorum. Any action by the Task Force requires a motion adopted by a majority of voting members present when there is a quorum.

#### *Support Services*

The bill requires the staff of the Office of Revisor of Statutes, Kansas Legislative Research Department, and Division of Legislative Administrative Services to provide assistance as requested by the Task Force.

#### *Data and Information Provided*

The State Board of Education is required to provide consultants and assistance when requested by the Task Force and any information or documentation requested by the Task Force.

#### ***Compensating School Board Members***

The bill authorizes school districts to compensate members of local boards of education for the work and duties performed by such members.

### ***Nonresident Enrollment***

The bill permits nonresident direct enrollment, beginning in school year 2024-2025, for students of school district employees and students experiencing homelessness. The bill also requires school districts to consider the adverse impact of homelessness on attendance when determining the school district's capacity to accept nonresident students. The bill also gives a priority to students who are children of a military parent, subject to capacity, to enroll and not be subject to the open seat lottery.

### ***Low-income Students Scholarship Program***

The bill updates the definition and criteria for a "qualified school" by modifying an accreditation requirement to include a nonpublic school that is working in good faith toward accreditation.

The bill changes the income eligibility for the scholarship from 185 percent of the federal poverty level to 250 percent of the federal poverty level. The bill also increases the tax credit for contributions to scholarship granting organizations from 70 percent to 75 percent of the amount contributed.

### ***KSEEA—Amendments***

The bill makes several amendments to the Kansas School Equity and Enhancement Act concerning the calculation of State Foundation Aid and specific weightings related to school district building closures.

The bill allows a school district to use enrollment numbers for all regularly enrolled students from kindergarten through grade 12, as well as the school district's number of enrolled preschool-aged at-risk students, as of September 20 of the current school year or previous school year for the purpose of calculating State Foundation Aid for the current fiscal year.

The bill also allows a school district to utilize current school year or previous school year enrollment numbers for the purpose of calculating State Foundation Aid for the current fiscal year. [*Note:* Under current law, school districts are permitted to utilize enrollment numbers from one of the two prior school years for the calculation of State Foundation Aid. An alternative calculation method is also permitted for school districts that enroll military students and receive federal Impact Aid.]

The bill modifies the low enrollment and high enrollment weightings for any school district that attaches territory of a disorganized school district or accepts students in the current year who attended in the previous year a school building in a school district that has since been closed by the district. The bill allows recipient districts to use the preceding year's low enrollment factor for the next three years, or use the current low enrollment calculation if it is greater.

### ***Continuing the 20 Mill Statewide Levy for Schools***

The bill extends the *ad valorem* tax levy on taxable tangible property of the school district to include the 2023-2024 and 2024-2025 school years and continues the 20 mill

statewide property tax for schools for the school years 2023-2024 and 2024-2025 to finance the portion of the school district's general fund budget not otherwise funded by law.

### ***School District Cost-of Living Weighting***

The bill amends the formula by which the State Board of Education determines whether a school district may levy a tax to finance costs incurred by the State that are directly attributable to assignment of the cost-of-living weighting to the district's enrollment, to multiply the statewide average appraised value of single family residences by 115 percent rather than 125 percent. The bill also provides for an increase in the cost-of-living weighting cap from 5 percent to 7 percent in the 2023-2024 school year. The bill provides for ensuing yearly increases in the cap using the preceding three-year average of the Consumer Price Index for the urban region as an inflation increase. [Note: This weighting is funded by a local mill levy with no impact on the SGF.]

### ***School District High Density At-Risk Weighting Sunset Extension***

The bill extends the high density at-risk weighting sunset from July 1, 2024, to July 1, 2027.

### ***School District Capital Improvements***

The bill also removes language included in 2022 Senate Sub. for HB 2567 that required a transfer of revenue from the SGF to the School District Capital Improvements Fund. Starting in FY 2024, the bill reverts the transfer to a demand transfer in accordance with KSA 72-5462.

### ***Effective Date***

The bill is in effect upon publication in the *Kansas Register*, unless otherwise noted.

### **Medical Loan Programs; AO-K to Work Program; High School Equivalency Credential; Senate Sub. for HB 2060**

**Senate Sub. for HB 2060** makes various technical changes to statutes, including changes to law relating to the Drivers' Training School License Act. The bill also amends law relating to the State Medical Student Loan Program and the Medical Residency Bridging Program (loan programs) and establishes an obstetrics and gynecology (OBGYN) medical loan repayment program. Additionally, the bill authorizes several items that qualified students must be provided reasonable access to under the AO-K to Work Program. Similarly, the bill amends law to include individuals who receive a high school equivalency (HSE) credential, or who are pursuing an HSE credential, in the calculation of and subsequent distribution of performance-based payments for community colleges and technical colleges.

### ***Drivers' Training School License Act***

The bill makes technical changes to the Drivers' Training School License Act to ensure that community colleges, rather than students enrolled in community colleges, receive payments

from the State Safety Fund for the number of students who have completed a driver training course during the past school year.

### ***Medical Loan Programs***

Under continuing law, the University of Kansas Medical Center (KUMC) administers the two loan programs to incentivize the practice of medicine in certain areas of the state and in certain facilities of the state. The Kansas Medical Student Loan program provides tuition and a stipend to undergraduate students enrolled in or admitted to the University of Kansas School of Medicine (KU School of Medicine) who enter into agreements to practice primary care medicine or psychiatry in areas of need in the state.

#### *University of Kansas School of Medicine Residencies*

The bill increases the number of medical student loan agreements available under the loan programs at the KU School of Medicine from 6 to up to 12. The bill also adds a provision specifying that the KU School of Medicine may not prohibit nor create substantial impediments to students in the programs from switching between approved postgraduate residency training programs.

#### *Medical Residency Training Programs in Obstetrics and Gynecology*

The bill includes medical residency training programs in OBGYN as part of the postgraduate medical residency programs that a person may enter into in order to qualify for state medical student and medical residency loan assistance.

#### *Exemptions*

The bill exempts a person, or a person's spouse, who is unable to satisfy their obligations due to active military service from paying the 15 percent annual interest rate on any moneys received under such loan programs. Similarly, the bill allows a person participating in a health-related fellowship to postpone the obligation to engage in the practice of medicine and surgery for not more than one year. [Note: Under current law, any person who fails to complete an approved residency training program or fails to satisfy the obligation to engage in the full-time practice of medicine and surgery within a service commitment area for the required period of time must repay all money received from the loan programs, plus accumulated interest at an annual rate of 15 percent.]

#### *Restrictions on Practice During Service Requirement*

The bill prohibits a person who completes an approved OBGYN residency training program from performing or inducing, or attempting to perform or induce, an abortion during the time such person is satisfying the service requirement under the loan programs. It also prohibits such person from creating or working for a clinic that performs or induces abortions during that time period. A person who fails to satisfy the service requirement due to the performance or inducement, or attempt at such, of an abortion is required to repay all money received pursuant to the loan, plus accumulated interest at an annual rate of 15 percent. [Note: A person who



performs or induces, or attempts to perform or induce, an abortion in the case of a medical emergency or in the case of a pregnancy resulting from rape or incest is not deemed to have failed to complete the service requirement.]

### *Funds and Scholarships*

The bill also establishes the OBGYN Medical Loan Repayment Fund and the OBGYN Medical Residency Bridging Fund to be used for OBGYN residency training programs.

The bill authorizes the Kansas Board of Regents to award osteopathic medical service scholarships to Kansas residents who are undergraduate students enrolled in or admitted to pre-accredited schools of osteopathic medicine.

### *AO-K to Work Program*

Under current law, the Kansas Board of Regents awards an HSE credential to qualified students who, among other factors, successfully complete an approved AO-K career pathway and receive the industry-recognized credential appropriate to the completed pathway. Students are to be provided reasonable access to all available student resources of the adult education program, the participating technical or community college, and the appropriate community partners.

The bill adds several items to the available student resources that qualified students shall be provided reasonable access to, including books, tools, and personal materials that are required to participate in an AO-K career pathway program and industry examinations.

The bill also provides for financial assistance for books, tools, personal materials, and industry examinations. The financial assistance provided is the aggregate amount of the cost of books, tools, personal materials, and industry examinations for the AO-K career pathway program in which the student is enrolled and receiving assistance, minus the aggregate amount of all other aid awarded to the student. The financial assistance is subject to appropriations, and the amount of financial assistance provided for each student may not exceed \$500.

### *High School Equivalency Credential*

Under continuing law, the Kansas Board of Regents distributes incentive payments to each community college and technical college for individuals who have received a General Educational Development (GED) credential or who are pursuing a GED while enrolled in an eligible career technical education program.

The bill requires the Kansas Board of Regents to also distribute incentive payments to community colleges and technical colleges for individuals who have received an HSE credential or who are pursuing an HSE credential while enrolled in an eligible career technical education program. [Note: According to the Kansas Board of Regents, a GED credential is issued after the successful completion of the GED examination, a four-subject high school equivalency test. A HSE credential is issued after successful completion of the Kansas Pathway to Career High School Equivalency program, which allows a student who is at least 21 years old to work toward their high school completion as well as obtain a college certificate or credential.]

## GAMING

### **Approving an Amendment to the Gaming Compact Between the Prairie Band Potawatomi Nation and the State of Kansas; HR 6026 and SR 1725**

**HR 6026** and **SR 1725** approve an amendment to the gaming compact between the Prairie Band Potawatomi Nation and the State of Kansas. The proposed amendments create and amend provisions concerning sports wagering operations on the Nation's reservation lands.

## HEALTH

### **Study of Overdose Deaths; Restrictions on Authority of the Secretary of Health and Environment and Local Health Officers; Prohibition of COVID-19 Vaccine Requirement to Attend Child Care or School; HB 2285**

**HB 2285** requires the Secretary of Health and Environment (Secretary) to study overdose deaths and maintain confidentiality of the records used by the Secretary in the study. The bill restricts the duties and authority of the Secretary and local health officers regarding infectious and contagious diseases. The bill defines the COVID-19 vaccine and prohibits the Secretary from requiring such vaccine for any child cared for in a child care facility, any student enrolling or enrolled in a school for the first time, any child enrolling or enrolled for the first time in a preschool or daycare program operated by a school, and any other such students as may be designated by the Secretary, prior to admission or attendance at school.0

[*Note:* “School,” as defined in continuing law pertaining to student health (KSA 72-6261), means all elementary, junior high, or high schools within the state.]

#### ***Infectious and Contagious Diseases***

The bill amends statutes relating to tuberculosis, removes the requirement for enforcement of isolation and quarantine orders by law enforcement officers, provides employment protection for employees who isolate or quarantine, and addresses orders for school closure during a disaster.

#### ***Study of Overdose Deaths and Confidentiality of Records***

##### *Definitions*

The bill defines the following terms:

- “Data” means all facts, information, records of interviews, written reports, statements, notes, or memorandums secured in connection with an authorized medical research study;
- “Overdose” means injury to the body that happens when one or more drugs are taken in excessive amounts and includes fatal and nonfatal injuries; and
- “Secretary” means the Secretary of Health and Environment.

##### *Duties of the Secretary of Health and Environment*

The bill requires the Secretary to:

- Identify drug overdose deaths;

- Review autopsy reports, death certificates, medical records, and other relevant data;
- Review interactions with the health care system, behavioral health system, social services, educational institutions, children and family services, the criminal justice system, and any other system with which the decedent had contact prior to a drug overdose death;
- Contact family members and other affected or involved persons to collect additional relevant data;
- Make determinations regarding the preventability of drug overdose death cases and develop recommendations to prevent such deaths, including recommendations for changes to statutes, rules and regulations, policies, and procedures; and
- Disseminate findings and recommendations to the Governor, the Legislature, health care providers and facilities, behavioral health professionals, law enforcement, and the general public.

#### *Access to Information*

The bill gives the Secretary access to identifiable data sources and records:

- Law enforcement reports directly related to events leading up to a drug overdose death and information leading to the conclusion that the death may have been a drug overdose death;
  - The law enforcement agency is permitted to redact names and other personally identifiable information or exclude information that may reveal an ongoing investigation of drug violations or any criminal history information prohibited by law to be released;
- Autopsy records and coroner's investigative records regarding a drug overdose death in Kansas;
- Medical records or emergency medical services records regarding an overdose death or prior overdose by a decedent;
- A decedent's controlled substance dispensation records from the prescription monitoring program (K-TRACS) established by the Prescription Monitoring Program Act; and
- Records, data, and reports from any other applicable entity that has provided services to the decedent.

### *Subpoena Power and Confidentiality of Subpoenaed Records*

The bill permits the Secretary to apply to the district court, and the district court to issue, a subpoena to compel the production of any relevant data or information requested by the Secretary. Data or information received by the Secretary as a result of a subpoena is confidential and privileged and not subject to disclosure.

The bill states the provisions providing for confidentiality of subpoenaed records expire on July 1, 2028, unless the Legislature acts to continue the provisions, pursuant to exceptions to disclosure under the Kansas Open Records Act (KORA), prior to July 1, 2028.

### *Confidentiality of Records Obtained through Proceedings and Activities of the Secretary*

With regard to the study of overdose deaths, the following is confidential and not subject to KORA, the Kansas Open Meetings Act, subpoena, discovery, or introduction into evidence in a civil or criminal proceeding:

- All proceedings and activities of the Secretary or representatives and any opinions formed by these individuals as a result of such proceedings and activities; and
- Records obtained, created, or maintained, including records of interviews, written reports, and statements procured by the Secretary or any other person, agency, or organization acting jointly or under contract with the Kansas Department of Health and Environment (KDHE).

The bill does not limit or otherwise restrict the right to discover or use in any civil or criminal proceeding any document or record that is available and entirely independent of proceedings and activities of the Secretary or representatives of the Secretary.

The Secretary, or representatives of the Secretary, are not permitted to be questioned in any civil or criminal proceeding regarding the information presented or opinions formed as a result of an investigation. The bill does not prevent the Secretary or representatives of the Secretary from testifying to information obtained independent of the proceedings and activities or through subpoenas or that is public information.

The bill states the provisions providing for confidentiality of records pertaining to proceedings or activities of the Secretary or representatives of the Secretary expire on July 1, 2028, unless the Legislature acts to renew such provisions. The Legislature is required to review these provisions pursuant to exceptions to disclosure under KORA, prior to July 1, 2028.

### ***Restrictions on the Authority of the Secretary and Local Health Officers***

#### *General Authority of the Secretary of Health and Environment*

The bill amends the statute establishing the general powers and functions of the Secretary to specifically state the Secretary is prohibited from carrying out such powers and functions if those powers conflict with any other statute or expand their authority.

### *Statutory Provisions Related to Tuberculosis*

The bill amends the statutes related to infectious and contagious diseases to make it unlawful for any person to violate any provisions relating to tuberculosis or any associated rules or regulations made by the Secretary. Any such violation is a class C nonperson misdemeanor. The bill clarifies the statutes included in this provision.

### *Authority of the County, Joint Board of Health, or Local Health Officer*

The bill removes the authority of the county, joint board of health, or local health officer to prohibit public gatherings for the control of infectious or contagious disease.

### *Authority of Secretary and Local Health Officer Regarding Infectious or Contagious Diseases*

The bill reinstates the Secretary's authority to designate infectious or contagious diseases by rules and regulations but requires proposed changes to be submitted to the Speaker of the House of Representatives and the President of the Senate prior to adopting the changes.

The bill authorizes the Secretary to recommend and educate the public in ways to prevent the spread of diseases. The bill removes the authority of the Secretary to provide for the testing for infectious or contagious diseases and the isolation and quarantine of persons afflicted with such diseases and to issue medically necessary orders and rules and regulations to prevent the spread of disease to the public.

The bill authorizes the Secretary to make recommendations, instead of developing and adopting rules and regulations, for preventing the introduction and spread of infectious or contagious diseases and for the protection of individuals who provide medical and nursing services, clinical or forensic laboratory services, emergency medical services, firefighting, law enforcement and correctional services, or other services or persons who receive the services provided or are employed in other services where the individual or person may encounter occupational exposure to blood or other infectious material.

The bill removes the authority of either the local health officer or Secretary to issue an order:

- To an individual who may have been exposed to an infectious or contagious disease to seek evaluation and treatment. It authorizes the local health officer to recommend the individual seek appropriate and necessary evaluation and treatment;
- To a person or group of people who may have been exposed to an infectious or contagious disease to go into and remain in isolation or quarantine. It authorizes the local health officer to recommend the person or group of people to go into isolation or quarantine;
- To an individual who may have been exposed to an infectious or contagious disease and has refused medical examination, treatment, or testing to go to

isolation or quarantine. It authorizes the local health officer to recommend the individual go into isolation or quarantine. The bill removes refusal to be vaccinated as a reason to recommend isolation or quarantine; and

- On behalf of a minor child or a ward, who may have been exposed to an infectious or contagious disease and whose parent or guardian has refused medical examination, treatment, or testing for such child or ward to go to isolation or quarantine. It authorizes the local health officer to recommend the minor child or ward go into isolation or quarantine. The bill removes refusal to be vaccinated as a reason to recommend isolation or quarantine.

#### *Enforcement by Law Enforcement Officers*

The bill removes the requirement that any sheriff, deputy sheriff, or other law enforcement officer assist in the execution or enforcement of any orders regarding compliance with the orders of the local health officer or Secretary pertaining to infectious or contagious diseases.

#### *Employment Protections*

The bill prohibits public or private employers from discharging an employee solely for following an isolation or quarantine recommendation from a local health officer. If an employer is found in violation of such prohibition in an action against the employer, the prevailing plaintiff shall be awarded actual damages the person sustained, costs, and reasonable attorney fees.

#### *Local Health Officer Authority*

The bill amends the authority of a local health officer regarding investigations of cases of infectious, contagious, or communicable diseases to require the use of medically necessary and reasonable measures. The bill also removes the requirement that a local health officer perform other duties that may be required by the Secretary. The bill also removes language pertaining to orders issued by a local health officer regarding the remediation of any infectious disease.

#### *Orders for School Closure*

The bill amends the provisions regarding school closure to remove an order issued by the Secretary as a basis for a “disaster.”

#### ***Prohibition of COVID-19 Requirement to Attend Child Care or School***

The bill prohibits the Secretary from requiring a COVID-19 vaccine for any child cared for in a child care facility, any student enrolling or enrolled in a school for the first time in Kansas, any child enrolling or enrolled for the first time in a preschool or daycare program operated by a school, and any other such students as may be designated by the Secretary, prior to admission or attendance at school.

The bill defines the COVID-19 vaccine as an immunization, vaccination, or injection against disease caused by a variant of the novel coronavirus identified as SARS-CoV-2 or disease caused by a variant of the virus.



## LEGISLATURE

### Technical Bill—Reconciling Amendments to Statutes; SB 106

**SB 106** reconciles amendments to statutes that were amended more than once during the current and prior legislative sessions. For such statutes, the bill repeals one version and, if necessary, amends the continuing version with noncontradictory amendments from the repealed version to create a single version of the statute containing all amendments.

## PROFESSIONS AND OCCUPATIONS

### **Sports Waiver for Health Care Professionals; Vaccination Administration by Pharmacy Technicians; Professions Licensed by Behavioral Science Regulatory Board; Sub. for SB 131**

**Sub. for SB 131** permits the issuance of a sports waiver for certain health care professionals; amends a provision in the Pharmacy Act of the State of Kansas to add pharmacy technicians who meet age and supervision oversight parameters to the list of those authorized to administer vaccinations after successfully completing an appropriate course of study and training; and modifies several requirements for some of the professions licensed by the Behavioral Science Regulatory Board (BSRB), adds new temporary licensure categories, and establishes requirements for an expedited application process.

#### ***Sports Waiver***

The bill authorizes certain health care professionals licensed in a home state other than Kansas and traveling with a sports team to practice their profession within Kansas for a short period of time during certain sporting events under a sports waiver issued by the State Board of Healing Arts (Board). Health care services may be provided on behalf of team members and coaching staff only during sporting events pursuant to a contract with a sports team to provide such services, upon invitation by a national sports governing body to provide medical services at a national sports training center in Kansas, or at events or competitions sanctioned by a national sport governing body.

The bill establishes a process for sports waivers for health care professionals licensed by the Board; authorizes the Board to issue such waivers; sets limitations on the frequency and duration of the waivers; and addresses scope-of-practice requirements, compliance with Kansas rules and regulations, and reporting of any potential violation of the Healing Arts Act or other applicable practice act to the Board. Additionally, the bill provides the Board with authority to promulgate rules and regulations to implement the bill's provisions, authorizes the Board to establish procedures to allow sports waivers for other health care professions, and makes the provisions of the bill part of and supplemental to the Healing Arts Act.

#### ***Sports Waiver Process and Requirements for Physicians***

The bill requires the Board to issue a sports waiver to an out-of-state physician within 15 days from receipt of a complete application if the physician:

- Submits a complete application;
- Holds an unrestricted license in another state and is not the subject of any investigation or disciplinary action;
- Has professional liability insurance coverage for the duration of the sporting event at the minimum required levels to practice in Kansas; and

- Has entered into a written agreement with a sports team to provide medical care to team members and coaching staff traveling with the team for a specific sporting event in Kansas; or
- Has been invited by a national sport governing body to provide medical services to team members and coaching staff at a national sports training center in Kansas or to provide medical services at an event or competition sanctioned by a national sport governing body.

#### *Health Care Provider Practice Requirements*

The bill requires any individual who has been issued a sports waiver by the Board to practice within the scope of practice as defined by Kansas law for their health care profession and limits health care services to be provided only for team members and coaching staff as required by written agreement with a sports team or health care services required by a national sport governing body.

The bill also requires a health care provider issued a sports waiver by the Board to adhere to all the rules and regulations pertaining to the health care profession in Kansas and considers the health care professional to be a licensee of the Board.

#### *Practice Restrictions*

The bill prohibits a physician exempt from state licensure due to the issuance of a sports waiver from providing health care or consultation to any individual residing in Kansas, other than those specifically authorized under the bill to receive health care services. The bill also prohibits the practice of an individual's health care profession at a licensed health care facility in this state.

#### *Sports Waiver Limitations*

The bill specifies that a sports waiver is valid for the duration of a sporting event, not to exceed 30 days, and limits an individual to no more than 5 sports waivers per calendar year, except during an extenuating, unforeseen circumstance as approved by the Board.

#### *Reporting Requirements*

The bill requires an individual under a sports waiver or an out-of-state sports team to report to the Board any potential violation of the Healing Arts Act or other applicable practice act including, but not limited to, unprofessional conduct or professional incompetence.

#### *Sports Waiver Denial*

The bill authorizes the Board to deny an application for a sports waiver if the individual does not meet the technical qualifications or if granting the sports waiver endangers the health and safety of the public.

### *Sports Waiver Rules and Regulations*

The bill authorizes the Board to adopt rules and regulations necessary to implement the provisions of the bill, including procedures for reporting potential medical violations.

### *Sports Waivers for Other Board Licensed Health Care Professionals*

The bill authorizes the Board to adopt procedures to allow other health care professionals licensed and regulated by the Board to be issued a sports waiver to ensure patient safety.

### *Inclusion in Healing Arts Act*

The bill adds provisions of the bill pertaining to sports waivers to the Healing Arts Act.

### ***Pharmacy Act Amendments—Vaccine Administration***

The bill amends a provision in the Pharmacy Act of the State of Kansas to add pharmacy technicians, at least 18 years of age and under the direct supervision and control of a pharmacist, to the list of those authorized to administer vaccinations after successfully completing a course of study and training in vaccination storage, protocols, injection technique, emergency procedures, record keeping, and cardiopulmonary resuscitation (CPR).

The bill requires a pharmacist, pharmacy student, or pharmacy intern to be at least 18 years of age to administer a vaccine.

Pharmacy technicians are added to pharmacists, pharmacy students, and pharmacy interns as:

- Authorized to administer:
  - The influenza vaccine to persons 6 years of age or older; and
  - Vaccines, other than the influenza vaccine, to persons 12 years of age or older pursuant to a vaccination protocol;
- Required to report a record of the immunization to the appropriate physician for the individual receiving the immunization; and
- Prohibited from delegating authority to administer a vaccination.

### ***Behavioral Sciences Regulatory Board***

The bill reduces the number of months of practice prior to being eligible for reciprocity of licenses, increases the number of months that a temporary license is valid, reduces continuing education hours for professionals who diagnose, clarifies the education requirements for marriage and family therapists, and clarifies the disciplinary procedure for behavior analysts.

The bill also adds provisions for some of the professions including adding a process and timeline for the BSRB to follow when processing applications; definitions for “extenuating circumstances” and “merits the public trust”; a process for licensees to request additional time to complete continuing education requirements due to extenuating circumstances; temporary licenses for social work graduates of education programs seeking accreditation; a temporary reinstatement license for expired licenses; a temporary student license for addiction counseling; and a temporary license for some licensees who are employed by community mental health centers.

The bill adds provisions that do not permit a person who practiced under a student temporary addiction counselor license to practice under a community-based license in any of these professions: professional counselor, social work, marriage and family therapy, or psychology. Additionally, the bill does not permit a person who practiced under a community-based license to practice addiction counseling under a student temporary addiction counselor license.

The bill does not permit a licensee to be issued a community-based license if they had previously held a temporary license in the same profession.

[*Note:* The changes made by this bill apply to multiple licenses but the change to each license type utilizes the same language. When only one license or group is impacted, the specific group is identified.]

### *Application Processing*

The bill specifies applicants are to be notified by the BSRB as to the sufficiency of their application within 15 days of receipt. If the application is incomplete, the BSRB will advise what is needed to make the application complete. The bill requires decisions on completed applications to be issued within 30 business days.

The bill adds a requirement that the BSRB must adopt an expedited application process and that an application must be reviewed and have a decision rendered within 15 business days. The fee for expedited applications will be established by the BSRB in an amount that does not exceed \$100 and will not be charged to a military servicemember or military spouse. The bill defines “military servicemember” and “military spouse” for this purpose.

### *Modifications to Existing Licensure Requirements*

**Reciprocity of licenses.** The bill reduces the number of months of registration, certification, or licensure in another jurisdiction with a similar scope of practice needed for a reciprocal license from 48 of the last 54 months to 12 months for a professional counselor, social worker, marriage and family therapist, addiction counselor, and psychologist licenses.

**Temporary licenses.** The bill amends the length of time a temporary license is valid to 24 months for the following licenses: professional counselor, bachelor’s social work, master’s social work, marriage and family therapy, addiction counselor, master’s addiction counselor, and student addiction counselor.

**Reduction in continuing education hours for some licensees.** The bill reduces to not less than three hours, from not less than six hours, the requirement for continuing education per renewal period for diagnosis and treatment of mental disorders for those professional counselors, master social workers, specialist clinical social workers, and marriage and family therapists who diagnose and treat mental disorders. These requirements take effect on and after July 1, 2025.

**Reduction in credit hours for specialist clinical social workers.** The bill reduces the number of credit hours that support diagnosis or treatment of mental disorders required for specialist clinical social workers from 15 credit hours to 3 credit hours and specifies that such hours will be in the study of psychopathology. The bill also adds “diagnostic impression” as a type of supervised clinical experience that satisfies the graduate clinical practicum requirement for specialist clinical social workers.

**Marriage and family therapist education requirements.** The bill amends education requirements of a marriage and family therapist applicant to add that the applicant must complete an academically supervised practicum in the master’s degree program with at least 300 hours of direct client contact or a combined 300 hours of direct client contact and additional postgraduate supervised experience.

**Behavior analyst licenses.** The bill amends behavior analyst requirements to create more uniformity with the other professions the BSRB licensees by adding language to authorize licensee reinstatements and modifying the disciplinary remedies.

**Board membership.** The bill adds licensed clinical psychotherapists and licensed master addiction counselors as possible members of the BSRB.

**Definitions.** The bill adds “extenuating circumstances” as a definition for licenses overseen by the BSRB including professional counselors, social workers, marriage and family therapists, addiction counselors, psychologists, and community-based licensees.

“Extenuating circumstances” means any condition or situation caused by events beyond an individual’s control that is sufficiently extreme in nature to result in the individual’s inability to comply with requirements or inadvisability of requiring the individual to comply with requirements.

**Psychologists.** The bill replaces “of good moral character” as a standard for psychologists to be issued a license with “merits the public trust,” which means that an applicant or licensee possesses the high standard of good moral character and fitness that is required to practice psychology as demonstrated by the following personal qualities:

- Good judgment;
- Integrity;
- Honesty;
- Fairness;
- Credibility;
- Reliability;
- Respect for others;
- Respect for the laws of this state and the nation;

- Self-discipline;
- Self-evaluation;
- Initiative; and
- Commitment to the psychology profession and its values and ethics.

**Extension of licensure.** The bill provides for a current licensee experiencing extenuating circumstances to request an additional three months to complete continuing education requirements. The licensee is required to:

- Provide reason for requesting additional time, showing extenuating circumstances for why the hours will not be completed during the licensing period; and
- Provide a plan outlining the manner in which the licensee intends to complete the remaining continuing education hours.

A licensee receiving additional time to complete continuing education hours is required to renew the license prior to the license expiration date and report to the BSRB the number of continuing education hours completed on that date as well as notify the BSRB upon completing the remaining hours. The licensee is subject to an audit by the BSRB of the total number of continuing education hours completed for the applicable licensing period.

A licensee will not be approved for additional time to complete continuing education requirements in consecutive license periods.

**Temporary reinstatement of expired license.** The bill adds a provision that permits licensees with expired licenses to apply for reinstatement of the license. The bill reduces the fee charged to reinstate an expired license.

For those licensees with licenses expired less than one year, evidence of the necessary continuing education and payment of fee is sufficient. For those licensees with a license expired for longer than 12 months, a temporary license of 6 months may be issued to permit the applicant additional time to complete continuing education requirements. The temporary license based upon an expired license may not be extended or renewed.

**Licensure for social work graduates of programs undergoing the accreditation process.** The bill permits the temporary licensure of social work candidates for 24 months who have completed their bachelor's or master's degrees through an education program that is in the process of seeking accreditation. These individuals will hold a temporary candidacy license until the degree program is granted accreditation. The 24-month period may be extended upon request by the licensee if the program remains in the accreditation process after the 24-month time frame expires.

Temporary licensees are required to work under the supervision of a licensed social worker but are not required to complete continuing education requirements. Persons with such a license are required to identify themselves as a temporary candidacy baccalaureate or master social worker, specifying that their licensing is "by temporary candidacy license," and may not use the credentials "LBSW" "or LMSW."

If the program is successful in the completion of the accreditation, a permanent license will be granted upon the payment of the appropriate fee to the BSRB. If the program is not successful in the accreditation process, the bill requires the Board to immediately revoke the temporary license.

**Student temporary addiction counselor license.** The bill adds a new licensure for student temporary addiction counselors. This license will be available for students who have:

- Completed 60 credit hours of higher education in the area of addiction counseling or related field;
- Signed an attestation of intent to pursue licensure with a plan to complete the educational requirements within 48 months;
- Provided an education plan signed by the higher education institution official, including steps to obtain necessary coursework;
- Provided a signed attestation from a prospective employer who intends to offer employment upon obtaining the student temporary addiction counseling license;
- Submitted a supervision plan signed by an individual employed by the prospective employer supervising the student licensee. Such plan must include not less than four hours of supervision per month and not fewer than two supervision meetings per month, with a maximum of two hours per month being in group supervision;
- Satisfied the BSRB that the applicant is a person who merits the public trust;
- Reached at least 20 years of age; and
- Paid the required fee.

A student temporary addiction counselor license is valid for 24 months and may be renewed for an additional 24-month period upon the showing of evidence of the compliance with the educational plan. Any changes or updates to the original educational plan will require the signature of a representative of the higher education institution, evidence of supervisory logs signed by both student and supervisor, and payment of a required fee.

*Practice environments.* A holder of a student temporary addiction counselor license may practice only in one of the following named environments:

- A licensed or certified alcohol and other drug abuse program;
- A certified community behavioral health clinic; or
- A community mental health center.

*Supervision.* Supervision may be provided by one of the following types of practitioners who are licensed by the BSRB:



- Addiction counselors;
- Master's addiction counselors;
- Clinical addiction counselors;
- Master's social workers;
- Specialist clinical social workers;
- Professional counselors;
- Clinical professional counselors;
- Marriage and family therapists;
- Clinical marriage and family therapists;
- Master's level psychologists;
- Clinical psychotherapists; or
- Psychologists.

### *Community-based Licensure*

The bill adds a new community-based temporary license for professional counselors, social workers, marriage and family therapists, and psychologists who are employed by community mental health centers, federally qualified health centers, psychiatric residential treatment facilities, and private treatment facilities.

Under the bill, individuals may apply to the BSRB for community-based licensure, and this license will be issued once the application is reviewed and approved and the applicant has paid the set fee.

Community-based licenses expire upon issuance or denial of a general license or after 24 months. The license is not eligible for renewal. The licensee is not eligible to practice except under the supervision of a person licensed by the BSRB to practice at an independent level. The license will not be available to persons who had been issued a temporary license in the same profession.

A student temporary addiction counselor licensee who has practiced under that license may not practice with a community-based license in any of these professions: professional counselor, social work, marriage and family therapy, or psychology.

Additionally, the bill does not permit a person who practiced under a community-based license to practice addiction counseling under a student temporary addiction counselor license.

**Fees.** The bill authorizes the BSRB to set fees for community-based licenses. Fees for community-based professional counselor licenses, community-based social work licenses, and community-based marriage and family therapist licenses may be no more than \$175. For community-based psychologist licenses, the fee may not exceed \$225.

## STATE FINANCES

### State Budget—Appropriations; SB 25

**SB 25** contains FY 2023 supplemental funding and FY 2024 and FY 2025 expenditure adjustments for certain state agencies. An overview of the Governor's amended budget recommendations for FY 2023 through FY 2024 and the Omnibus Conference Committee's adjustments to the Governor's amended recommendations are reflected below. The bill will become effective upon publication in the *Kansas Register*. [Note: This bill does not include most of the funding for K-12 education, which is separately contained in House Sub. for SB 113.]

#### *FY 2023 Approved Budget*

The FY 2023 budget approved by the Legislature totals \$18.1 billion, including \$4.8 billion State General Fund (SGF). The recommendation is an all funds decrease of \$7.5 billion, and an SGF decrease of \$5.2 billion, below the Governor's FY 2023 recommendation. Major adjustments to the FY 2023 approved budget include the following:

- Do not adopt GBA No. 1, Item 17, and delete \$820.0 million SGF in FY 2023 to not implement a one-time tax rebate of \$450 to Kansas residents who filed a timely tax return in calendar year 2022;
- Do not adopt GBA No. 1, Item 8, to add \$2.5 million SGF to expand the Program of All-inclusive Care for the Elderly (PACE) program in FY 2023;
- Add \$2.0 million SGF for the Gage Park Improvement District Fund in FY 2023; and
- Add language that increases the proportion of tax revenue to the SGF necessary to suspend transfers to the Budget Stabilization Fund from 15.0 percent to 20.0 percent in FY 2023.

#### *FY 2024 Approved Budget*

The FY 2024 budget approved by the Legislature totals \$17.1 billion, including \$4.9 billion SGF. The recommendation is an all funds decrease of \$7.1 billion, and an SGF decrease of \$4.5 billion, below the Governor's FY 2024 recommendation. Major adjustments to the FY 2024 approved budget include the following:

- **Statewide** - Add \$120.0 million, including \$46.0 million SGF, to provide salary adjustments to state employees for FY 2024 based on the Department of Administration Market Survey;
- **Board of Regents:**
  - Add \$8.5 million SGF for the NISS Academic Playbook for FY 2024;
  - Add \$13.0 million SGF for a Health Science joint project between the University of Kansas (KU) Medical Center and Wichita State University for FY 2024;

- Add \$6.0 million SGF for the construction of the Student Success Center at Fort Hays State University for FY 2024; and
- Add language to create the Comprehensive Grant for Private and Independent Colleges, funded with \$5.0 million of the existing appropriation of the Comprehensive Grant for FY 2024;
- **Secretary of State** - Add \$4.7 million SGF for FY 2024 to implement Senate Sub. for HB 2053, which creates the presidential preference primary;
- **Kansas Water Office** - Add \$18.0 million, all from the State Water Plan Fund, and add language authorizing transfers from the Fund to the Department of Wildlife and Parks and KU for FY 2024, with State Finance Council approval;
- **KDOT** - Add \$5.0 million, all from the Rail Service Improvement Fund, for FY 2024 to align with the provisions of HB 2335, which increases assistance to short line railroads;
- **State Treasurer:**
  - Transfer \$50.0 million SGF to the Build Kansas Matching Grant Fund for FY 2024; add language that caps technical support at \$5.0 million; require a means test being developed and used for those local communities applying for the infrastructure grants; create the Build Kansas Joint Legislative Committee to review the applications; require the Build Kansas Joint Legislative Committee to be made up of nine individuals, the composition of which will include one legislative representative named by the Governor, three individuals chosen by the Speaker of the House, three individuals chosen by the President of the Senate, one individual chosen by the House Minority Leader, and one individual chosen by the Senate Minority leader; require the State Finance Council to approve any request to exceed the \$55.0 million annual cap; and require 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; and transfers of \$55.0 million will occur in FY 2025 – FY 2027; and
  - Lapse the transfer of \$52.0 million SGF appropriated in HB 2302 for FY 2024;
- **Kansas Department for Aging and Disability Services** - Add \$5.0 million SGF in caseloads savings to reimburse healthcare providers, law enforcement agencies, and counties on an hourly basis for patient observation and transportation following an evaluation and approval for stay at a state mental health hospital and admission to the state hospital for FY 2024; and
- **Department of Education** - Add \$13.5 million SGF for the Mental Health Intervention Pilot program for FY 2024. In addition, add language to provide greater access to behavioral health services for students and establish a coherent structure between school districts and community mental health centers to optimize behavioral health resources and workforce.

## STATE GENERAL FUND RECEIPTS, EXPENDITURES, AND BALANCES

### SB 25 – Profile (Dollars in Millions)

	Actual FY 2022	SB 25 FY 2023	SB 25 FY 2024
Beginning Balance	\$ 2,094.6	\$ 2,094.8	\$ 1,861.6
Receipts (April 2023 Consensus)	7,935.9	9,829.4	10,233.7
Governor’s Revenue Adjustments	0.0	(770.0)	193.4
Legislative Tax Adjustments	0.0	0.0	(90.6)
Legislative Receipt Adjustments	0.0	168.8	(85.2)
Adjusted Receipts	7,935.9	9,228.2	10,251.3
Total Available	\$ 10,030.7	\$ 11,062.7	\$ 12,112.9
Less Expenditures	8,196.2	4,741.2	4,928.1
HB 2302 – Milford and Perry Reservoirs	0.0	52.0	0.0
Education – House Sub. for SB 113	0.0	4,407.8	4,595.1
<b>Ending Balance</b>	<b>\$ 2,094.8</b>	<b>\$ 1,861.6</b>	<b>\$ 2,589.7</b>
Ending Balance as a % of Expenditures	22.4 %	20.3 %	27.2 %

## TAXATION

### Taxation Omnibus; SB 8

**SB 8** amends law related to property, sales, and income taxes.

Property tax provisions of the bill include changes related to filing statements for personal property, a specification of land classification related to agritourism, changes to the Homestead Refund Program, the creation of a property tax exemption for certain businesses located near facilities where a government entity competes against the business, changes to the revenue neutral rate hearing notice, an extension of state reimbursement for county expenses related to printing and postage of revenue neutral rate hearing notices, changes to property valuation notices, changes to certain property appeal procedures, and codification of property valuation adjustments related to adverse influences affecting agricultural land.

Sales tax provisions of the bill include a sales tax exemption for certain telecommunications infrastructure and a sales tax price exclusion for manufacturer's coupons.

Income tax provisions of the bill include subtraction modifications for certain net operating losses and tax credit disallowances, changes to the SALT Parity Act, reductions in penalties for late remittance of withholding taxes, the enactment of the Pregnancy Resource Act, changes to tax credits for adoption, and changes to the Disability Employment Act tax credit.

### ***Property Taxes***

#### *Personal Property Tax Filings*

The bill limits the instances in which a taxpayer must file statements regarding tangible personal property for tax purposes, reduces penalties for late filings, and specifies circumstances in which extensions of time for filing such statements and abatements of penalties are to be provided.

#### *Single Initial Filing*

The bill provides that if an initial statement listing tangible personal property for taxation has been filed with a county appraiser, future annual filings are only required when there has been a change to report that is related to the property previously listed or to the initial statement.

#### *Reduced Penalties*

The bill reduces the penalty for late filing of oil and gas leases and tangible personal property from 5 percent to 2 percent per month with the maximum penalty for late filing being reduced from 25 percent to 10 percent. The penalty for a failure to file resulting in escaped taxation is reduced from 50 percent to 12.5 percent.

### *Extensions of Time and Abated Penalties*

The bill requires county appraisers, who currently have discretionary authority to do so, to grant an extension of a reasonable amount of time for taxpayers to file tangible personal property for taxation upon a showing of good cause.

County appraisers and the State Board of Tax Appeals are required to abate late filing penalties under cases of excusable neglect or in the event the property has been repossessed by a creditor who paid the taxes on the property. [Note: Current law provides only the State Board of Tax Appeals with discretionary authority to abate such penalties.]

Beginning in tax year 2022, such good cause and excusable neglect are specified to include instances in which tangible personal property had been previously classified as real property or a fixture to real property and was reclassified to be personal property. Such instances are specified to include machinery and equipment used in industries of grain storage and processing and ethanol or other biofuels processing.

### ***Agritourism Land Classification***

The bill specifies, beginning in tax year 2021, that land devoted to agricultural use includes land and buildings utilized as part of a registered agritourism activity at a registered agritourism location by a registered agritourism operator.

The selling of merchandise associated with the registered agritourism activity by the agritourism operator does not change the classification of the land or buildings as a result of such sales.

### ***Homestead Property Tax Refund Act Changes***

The bill makes changes to the refund option providing for a refund of the amount of tax in excess of the base year amount under the Homestead Property Tax Refund Act. [Note: The Homestead Property Tax Refund Act includes three different refund options. The other two refund options are not impacted by the bill.]

The bill, for purposes of only this refund option, excludes from the definition of “household income” all Social Security benefits, of which one-half have been included in the definition.

The bill increases the maximum amount of income for which taxpayers are eligible for this refund option from \$50,000 to \$80,000 and excludes eligible disabled veterans from being required to have incomes below \$80,000 in order to be eligible for this refund option.

The bill increases the maximum appraised value of an eligible claimant’s home in the base year from \$350,000 to \$500,000 and provides for future increases to this amount based upon the average percentage change in statewide residential valuation of existing residential real estate for the preceding 10 years.

The changes to the refund option are retroactive to tax year 2022, and the deadline to file claims for tax year 2022 is extended from April 15, 2023, to April 15, 2024.

### ***Government Competition Property Tax Exemption***

The bill creates, beginning in tax year 2024, a real and personal property tax exemption for certain businesses located in cities where a facility owned or operated by a governmental entity competes against the business or within five miles of a facility owned or operated by a governmental entity that competes against the business.

Businesses qualifying for the exemption are limited to child care centers, health clubs, or restaurants. The property must be used predominantly for the qualifying business.

In order to qualify for the exemption, the business must be in compliance with state law, city ordinances, and county resolutions and current in payment of state and local taxes.

For businesses that first begin ownership, operation, and use of property for a qualifying purpose after July 1, 2023, the exemption is only to be granted if the competing activity by the governmental entity began after the business began using the property.

“Competing against the business” is defined to mean offering the same or substantially the same goods or services to the public and receiving payment for the goods or services at least one-half the number of days per tax year as the business claiming the exemption and the facility owned or operated by a government entity is used predominantly for child care center, health club, or restaurant purposes. It is defined to exclude:

- The provision of goods and services without receiving payment; and
- The provision of goods or services predominantly to employees or students of the governmental entity.

Applicable governmental entities include the State of Kansas or any county, city, township, school district, community college, municipal or public university, and any other taxing district or political subdivision of the State that is supported with tax funds.

The bill requires ballot propositions to finance facilities owned or operated by governmental entities to include language indicating that such facility may compete against private business and cause private businesses to become exempt from property taxes.

### ***Revenue Neutral Rate Hearing Notice and Reimbursement***

The bill extends for one additional year, through calendar year 2024, the state reimbursement of printing and postage costs incurred when county clerks are required to mail notices of proposed tax increases beyond the revenue-neutral rate. The bill also extends the transfer from the State General Fund to the Taxpayer Notification Costs Fund to reimburse the printing and postage costs for one additional year.

The bill replaces the current provisions establishing minimum requirements for the contents of the revenue neutral rate hearing notice with new provisions specifying the heading and opening statement of the notice and requiring:

- The appraised and assessed value of the taxpayer's property for the current and previous year;
- The amount of property tax of each taxing subdivision on the property from the previous year's tax statement;
- The estimated amount of property tax for the current year of each taxing subdivision based on the revenue neutral rate;
- The estimated amount of property tax for the current year of each taxing subdivision based on the greater of the revenue neutral rate or the proposed tax rate provided by the subdivision to the county clerk, if the subdivision has notified the clerk of its intent to exceed the revenue neutral rate;
- The difference between the current year's maximum tax and the previous year's tax, in both dollars and percent, for each taxing subdivision;
- The date, time, and location of the hearing for each subdivision intending to exceed the revenue neutral rate; and
- For each taxing subdivision holding a revenue neutral rate hearing, the difference between the current year's maximum tax and the estimated tax at the revenue neutral rate.

### ***Property Valuation Notice Information***

The bill requires annual property valuation notices provided by county appraisers to include the appraised and assessed value of the property for the current year and two preceding years, changed from information for the current year and one preceding year.

### ***Residential Real Property Valuation Appeals***

The bill permits the use of appraisals performed by Kansas Certified Residential Real Property Appraisers for the equalization appeal procedure wherein a taxpayer files a third-party fee simple appraisal within 60 days after the notice of informal meeting results or final determination is mailed to the taxpayer. [Note: Current law provides for only the use of appraisals performed by Kansas Certified General Real Property Appraisers for this appeal procedure.]



### ***Payment Under Protest Prohibition Repeal***

The bill eliminates a provision prohibiting a taxpayer from appealing the valuation of their property using the payment under protest appeal procedure if they have already appealed their valuation pursuant to the equalization appeal and informal meeting procedure.

### ***Agricultural Land Adverse Influence***

The bill codifies the adjustments reducing the taxable value of agricultural land on the basis of adverse influences not sufficiently accounted for in the agricultural use valuation formula that are currently provided for in administrative guidance from the Property Valuation Division of the Department of Revenue.

The codified adverse influences include, but are not limited to:

- Canopy cover, for which value is reduced from 20 percent to 50 percent based upon canopy covering of 25 percent to 100 percent of the impacted land.
- Salinity and alkalinity, for which value is reduced based upon a taxpayer-provided soil analysis from a crop consulting service;
- Water table fluctuation, for which value is reduced based upon the results of a U.S. Department of Agriculture Natural Resources Conservation Service review of the water table levels of the impacted land; and
- Newly constructed drainage and flood control areas, for which value is reduced based upon the impact on land use from newly constructed drainage and flood control areas.

### ***Sales Taxes***

#### ***Telecommunications Sales Tax Exemption***

The bill creates a sales tax exemption for the purchase of equipment, machinery, or other infrastructure purchased for use in the provision of internet access service, telecommunications service, or video service and for the purchase of repair, maintenance, and installation services by providers in the provision of such internet access service, telecommunications service, or video service.

The exemption expires on July 1, 2028.

#### ***Manufacturer's Coupons Sales Tax Exclusion***

The bill excludes from sales price, for purposes of retail sales and compensating use taxes, the amount of coupons issued by a manufacturer, supplier, or distributor when the seller accepts such coupons and is reimbursed by the manufacturer, supplier, or distributor.

The exclusion takes effect January 1, 2024.

## ***Income Taxes***

### ***Net Operating Loss Subtraction Modification***

The bill creates a subtraction modification allowing taxpayers who carried back federal net operating losses in tax years 2018 through 2020 pursuant to the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act to subtract such amounts from their income for purposes of determining Kansas adjusted gross income. Taxpayers are permitted to carry forward such net operating loss for up to 20 years if the amount exceeds the Kansas adjusted gross income of the taxpayer.

The bill extends the deadline for eligible taxpayers to file amended returns for tax years 2018 through 2020 until April 15, 2025.

### ***Federal Tax Credit Disallowance Subtraction Modifications***

The bill enacts subtraction modifications in determining Kansas adjusted gross income equal to 100 percent of the amount of federal disallowance related to the Work Opportunity Tax Credit and similar credits under section 280C of the federal Internal Revenue Code and, effective for tax year 2020 and all years thereafter, 25 percent of the amount of federal disallowance related to the Employee Retention Tax Credit.

### ***SALT Parity Act Changes***

The bill clarifies that the tax on electing entities under the SALT Parity Act will be levied on:

- The *pro rata* or distributive share of the entity's income for each nonresident owner that is attributable to the Kansas; and
- The *pro rata* or distributive share of the entity's income for each resident owner calculated either before or after allocation and apportionment to Kansas. Entities will be required to use the same method of calculation for all resident owners.

The bill provides that tax credits attributable to the electing entity will be passed through to and claimed by the entity owner.

The provisions are retroactive to tax year 2022.

### ***Withholding Tax Remittance Penalties***

The bill replaces the 15 percent penalty for employers not timely remitting withholding taxes with a graduated penalty system providing for penalties as follows:

- 2 percent, if the remittance is 1 to 5 days late;

- 5 percent, if the remittance is 6 to 15 days late;
- 10 percent, if the remittance is more than 15 days late; and
- 15 percent, if the remittance is more than 15 days late and the Department of Revenue notified the taxpayer regarding the delinquency, but the tax was not remitted within 10 days of the notification.

### ***Pregnancy Resource Act***

The bill creates the Pregnancy Resource Act, which provides for a tax credit for contributions to nonprofit pregnancy centers or residential maternity centers exempt from federal income tax pursuant to section 501(c)(3) of the federal Internal Revenue Code, provided that such centers:

- Maintain a dedicated phone number for clients;
- Maintain a primary physical office, clinic, or residential home in Kansas for a minimum of 20 hours a week, excluding state holidays;
- Offer services free of charge to clients for the express purpose of providing assistance to women in carrying pregnancies to term, preventing abortion, and promoting healthy childbirths, and
- Utilize trained and licensed medical professionals in the performance of any available medical procedures.

The credit may be claimed against income, privilege, or premium tax liability beginning tax year 2023, in an amount equal to 50.0 percent of voluntary contributions made to such centers, and may be carried forward for up to five future tax years following the tax year in which the eligible contribution was made. No contribution may be payment for services rendered.

The aggregate amount of credits claimed is limited to \$10.0 million per tax year, with no more than \$5.0 million per tax year in credits claimed for contributions to any single organization.

### ***Administration of Credits***

Taxpayers claiming the credit must provide the Department of Revenue with the amount of the contribution and the name of the organization to which it was made. Prior to claiming credits, taxpayers must apply on forms provided by the Department certifying the dollar amount of the contribution made or to be made within the calendar year.

The Department of Revenue is required to allocate credits within 30 days after the receipt of an application. If the full credit amount cannot be allocated due to the annual aggregate limit having been reached, the Department is required to notify applicants within 30 days of any amount to be allocated. Prospective contributions must be made within 90 days of the allocation of a credit, which is otherwise canceled and may be reallocated.

Eligible charitable organizations must provide the Department of Revenue with a written certification, made under penalty of perjury, of eligibility in regard to the requirements specified by the bill, along with any other information the Department requires to administer its provisions. The Department is required to review each such certification and make a determination of eligibility, and make publicly available a list of eligible organizations. The Department is authorized to periodically request recertification from organizations.

Credits claimed by S-corporations, partnerships, limited liability companies, or other pass-through entities are to be distributed proportionally to shareholders, partners, or members according to ownership or as mutually agreed to by the parties.

### ***Adoption Tax Credit***

The bill increases, beginning in tax year 2023, the adoption tax credit to 75 percent of the federal adoption tax credit for most children and to 100 percent of the federal adoption tax credit if the child was a Kansas resident prior to the adoption and is a child with special needs, as defined in federal law. [Note: Current law provides for a tax credit amount of 25 percent of the federal adoption tax credit and additional amounts of 25 percent if the child adopted was a Kansas resident prior to the adoption and 25 percent if the child was a Kansas resident prior to the adoption and is a child with special needs, as defined in federal law.]

The bill provides, beginning in tax year 2023, for the adoption tax credit to be a refundable tax credit.

### ***Disability Employment Act Tax Credit Changes***

The bill makes changes to the tax credit for certain purchases, including naming the credit, modifying the duration and extent of the credit, expanding the definition of “individuals with disabilities,” and restructuring the definition of “qualified vendor” from whom purchases may be made.

#### *Name Change*

The provisions of the tax credit are named the Disability Employment Act.

#### *Duration and Extent of Credit*

The bill eliminates the provision specifying the credit will expire after tax year 2023. The bill provides for a cap on the aggregate amount of credits under the Disability Employment Act to be \$5.0 million in tax years 2019 through 2023, \$10.0 million in tax years 2024 through 2028, and \$10.0 million for each successive five tax years starting in tax year 2029.

#### *Individuals with Disabilities Definition*

The bill expands the definition of “individuals with disabilities” to include individuals who are certified by a health care provider, as determined by the Department of Revenue, who can

substantiate an individual as having a physical or mental impairment that constitutes a substantial barrier to employment. The bill also eliminates a requirement that individuals with disabilities work a minimum number of hours per week to qualify for health insurance coverage.

### *Qualified Vendor Definition*

The bill provides for three options by which an entity may qualify as a qualified vendor:

- A not-for-profit business qualifying as a certified business pursuant to KSA 75-3740 that:
  - Does business primarily in Kansas or substantially all of its production in Kansas;
  - Employs at least 30.0 percent of its employees in an integrated setting;
  - Offers to contribute at least 75.0 percent of the premium cost for health insurance coverage for each eligible employee; and
  - Does not employ individuals under a certificate issued by the U.S. Secretary of Labor under 29 U.S. Code section 214(c).
- A qualified vendor pursuant to KSA 75-3317 that:
  - Employs at least 30.0 percent of its employees in an integrated setting;
  - Offers to contribute at least 75.0 percent of the premium cost for health insurance coverage for each eligible employee, offers a company-sponsored insurance plan under the Affordable Care Act, pays the required subsidy to the Internal Revenue Service for employees to purchase insurance through the open market, or offers assistance to employees to cover at least 75.0 percent of their health insurance costs through legal and appropriate methodology; and
  - Does not employ individuals under a certificate issued by the U.S. Secretary of Labor under 29 U.S. Code section 214(c).
- A division of a Kansas not-for-profit organization that:
  - Does business primarily in Kansas or substantially all of its production in Kansas;
  - Within such division, employs at least 30.0 percent of its employees in an integrated setting;
  - Within such division, offers to contribute at least 75.0 percent of the premium cost for health insurance coverage for each eligible employee, offers a company-sponsored insurance plan under the Affordable Care Act, pays the required subsidy to the Internal Revenue Service for employees to purchase insurance through the open market, or offers assistance to employees to cover at least 75.0 percent of their health insurance costs through legal and appropriate methodology; and

- Does not employ individuals under a certificate issued by the U.S. Secretary of Labor under 29 U.S. Code section 214(c) within such division or any other division of the not-for-profit corporation.

Current law limits qualified vendors to not-for-profit businesses qualifying as certified businesses pursuant to KSA 75-3740 and qualified vendors pursuant to KSA 75-3317 and prohibits any employment by the vendor under a certificate issued by the U.S. Secretary of Labor under 29 U.S. Code section 214(c).

### **Sales Tax Exemptions and County Authority; Property Tax Filing and Mass Appraisal Courses; Tax Warrant Release Filings; HB 2002**

**HB 2002** creates two sales tax exemptions, authorizes additional sales tax authority for Grant and Dickinson counties, makes various changes to property tax law, and establishes a requirement for filing the release of tax warrants by the Secretary of Revenue.

#### ***Sales Tax Exemptions***

The bill creates sales tax exemptions for the following:

- Purchases by Kansas Suicide Prevention HQ for the purpose of bringing suicide prevention training and awareness to communities across Kansas; and
- Purchases by 501(c)(3) not-for-profit corporations that are designated as Area Agencies on Aging by the Secretary for Aging and Disability Services, for providing certain services to seniors and individuals with disabilities and for purchases made by a contractor for the purposes of constructing and maintaining facilities for such entities.

#### ***County Sales Tax Authority***

##### *Grant County Sales Tax Authority*

The bill authorizes the Board of County Commissioners of Grant County to submit to the voters of the county a question of imposing a countywide sales tax at a rate of up to 2.0 percent for the purpose of financing the construction or remodeling of a courthouse, jail, law enforcement facility, or other county administrative facility.

The tax expires upon the proceeds of the tax being sufficient to pay the costs incurred in the financing of such facility.

The proceeds of the tax are not subject to apportionment with the cities of Grant County.

### *Dickinson County Sales Tax Authority*

The bill authorizes the Board of County Commissioners of Dickinson County to submit to the voters of the county a question of imposing a countywide sales tax at a rate of 0.25 percent for the purpose of financing public safety capital projects.

The tax expires five years from the date first collected and can be extended for additional five-year periods upon additional elections.

The proceeds of the tax are not subject to apportionment with the cities within Dickinson County.

### ***Property Tax Provisions***

#### *Electronic Property Tax Documents*

The bill authorizes county treasurers to electronically deliver tax statements, tax notices, and tax information forms to taxpayers upon consent of the taxpayer.

The bill also authorizes county appraisers to electronically deliver property classification and appraised valuation information to taxpayers upon consent of the taxpayer.

#### *Mass Appraisal Courses*

The bill provides that appraisal courses and continuing education appraisal courses necessary to qualify for the designation of registered mass appraiser can be courses developed by the Director of Property Valuation specifically related to the administration of assessment and tax laws of Kansas or courses approved by the Kansas Real Estate Appraisal Board as provided in continuing law.

### ***Tax Warrant Release Filing***

The bill requires the Secretary of Revenue to file releases for tax warrants in the county where the warrants are docketed upon the taxpayers' full payment of taxes, penalties, and interest owed, including the fees for filing the releases. The requirement is effective January 1, 2024.

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