

# 2014 Summary of Legislation



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## INTRODUCTION

This publication includes summaries of the legislation enacted by the 2014 Legislature. Not summarized are bills of a limited, local, technical, clarifying, or repealing nature, and bills that were vetoed (sustained). However, these bills are listed beginning on page 162.

During the 2014 Session, 569 bills were introduced: 207 in the Senate and 362 in the House. In addition, 187 Senate bills and 315 House bills were carried over from the 2013 Session, for a grand total of 1,071 bills that were alive during the 2014 Session. Of these 1,071 bills, 142 (13.3 percent) became law: 40 Senate bills and 102 House bills. Further, of the 142 bills becoming law, 137 (96.5 percent) were introduced by committees and 5 (3.5 percent) were introduced by individual legislators.

The Governor vetoed two bills and seven line items. All vetoes were sustained. No bills will be carried over to the 2015 Session of the Legislature.



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## ABORTION

### Abortion Laws Updated; SB 54

**SB 54** amends different statutes pertaining to abortion, adding or revising certain definitions to make them consistent in different statutes, including provisions on licensing abortion facilities, medical emergencies involving abortion, abortions for minors, and abortions at facilities owned by the University of Kansas Hospital Authority. The bill also eliminates certain language, principally in a reference for the web link to the Kansas Department of Health and Environment's website.

Specifically, the bill adds a consistent definition of "bodily function" to one section of law, defining a bodily function to mean physical functions only and not to include mental or emotional functions. The bill also modifies the definition of "medical emergency" to make its use in various statutes consistent by removing references to the determination of gestational age and adding language referring to delays necessary to comply with applicable statutory requirements concerning abortion. Other language is stricken with regard to a medical emergency, eliminating references to the best medical judgment of the attending physician and the determination of an emergency in order to conform with the new definition of "medical emergency." Another provision addressing the University of Kansas Hospital Authority's facilities is modified regarding the meaning of the term "medical emergency" and the performance of abortions under certain enumerated conditions.

The bill also strikes the words "objective, nonjudgmental, scientifically accurate" from language required by law to be posted, along with a web link to information from the Kansas Department of Health and Environment, on the websites of private offices, freestanding surgical outpatient clinics, or other facilities or clinics where abortions are performed.

Finally, the bill removes inconsistent language in a statute pertaining to late term abortions to conform with a definitions' statute within the Woman's-Right-to-Know Act concerning abortions performed when the gestational age of the unborn child is less than 22 weeks and where abortions may be performed.

## ADULT CARE HOMES

### **Creation of Operator Registration Act and Update of Adult Care Home Licensure Act; HB 2418**

**HB 2418** creates the Operator Registration Act to require registration of operators responsible for the oversight of adult care homes and establishes operator qualification requirements. The bill also updates state agency references and removes an outdated rule and regulation reference from the Adult Care Home Licensure Act.

#### ***Adult Care Home Licensure Act Definitions***

Specifically, the bill amends “operator” to mean an individual registered pursuant to the Operator Registration Act, who may be appointed by a licensee to have the authority and responsibility to oversee an assisted living facility or residential health care facility with fewer than 61 residents, a home-plus, or an adult day care facility.

“Licensee” is defined as any person or persons acting jointly or severally who are licensed by the Secretary for Aging and Disability Services (Secretary) pursuant to the Adult Care Home Licensure Act.

#### ***Operator Registration Act***

##### *Definitions*

The Operator Registration Act (Act) is created with definitions as follows:

- “Operator,” “adult care home,” and “licensee” have the same definitions as found in the Adult Care Home Licensure Act; and
- “Secretary” and “department” mean the Secretary for Aging and Disability Services and the Kansas Department for Aging and Disability Services (KDADS), respectively.

##### *Registration*

On or after July 1, 2014, persons cannot represent themselves as operators unless registered under the Act. A violation of this provision is a class C misdemeanor.

The Secretary is required to adopt by rules and regulations a system for registering operators. Rules and regulations, at a minimum, need to require that an applicant seeking registration as an operator meet the following qualifications:

- Be at least 21 years of age;
- Possess:

- A high school diploma or equivalent, with one year relevant experience as determined by the Secretary; or
- An associate's degree in a relevant field as determined by the Secretary; or
- A bachelor's degree;
  
- Successfully complete a course approved by the Secretary on the principles of assisted living;
  
- Pass an examination approved by the Secretary on the principles of assisted living and any other requirements established by the Secretary by rules and regulations;
  
- File an application; and
  
- Pay the required application fee.

### ***Operation of an Adult Care Home***

An adult care home is not allowed to operate on or after July 1, 2014, without the supervision of an operator who is registered under the Act or licensed adult care home administrator (authorized to operate an adult care home under existing law).

### ***Registration***

For applications made within two years of July 1, 2014, the Secretary is allowed to waive the education, experience, and application fee requirements and grant registration as an operator to an applicant who has completed the operator course approved by the Secretary and has passed an examination approved by the Secretary prior to July 1, 2014. A person who meets these requirements but does not apply for registration as an operator within two years of July 1, 2014, is considered to have a lapsed registration for failure to renew.

### ***Registration Renewal***

#### ***Application Requirements***

Applications for renewal of valid registrations are made to KDADS according to rules and regulations adopted by the Secretary. Along with the application, the individual is required to pay a renewal fee fixed by rules and regulations and submit evidence, satisfactory to the Secretary, confirming completion of continuing education requirements as provided by rules and regulations. Applications for renewal submitted within 30 days after the expiration date also are required to be accompanied by a late fee fixed by rules and regulations. KDADS then issues a registration to an applicant upon the applicant's meeting all registration requirements.

### *Lapsed Registrations for Failure to Renew*

An individual who submits an application for a renewal of registration after the 30-day period following the date of expiration is considered to have a lapsed registration for failure to renew, which requires reinstatement of the registration.

Reinstatement of a registration that lapsed for failure to renew requires the operator to pay the renewal fee and the reinstatement fee and to submit evidence showing satisfactory completion of any program or course of study established by the Secretary for persons whose registrations have lapsed for failure to renew. The Secretary is required to adopt rules and regulations establishing appropriate requirements for the reinstatement of such individuals.

### *Renewal of Applications*

The expiration dates for registrations issued or renewed are established by rules and regulations of the Secretary. Registrations are renewable biennially by filing a renewal application prior to the expiration of an existing registration and upon payment of the renewal fee, except as otherwise provided.

To allow for a system of biennial registration, the Secretary is authorized to provide by rules and regulations that registrations issued or renewed for the first time after July 1, 2014, can expire less than two years from the date of issuance or renewal. The Secretary is required to prorate to the nearest whole month the registration or renewal fee set by rules and regulations. Delinquent registration renewals are not prorated.

### **Fees**

All fees under the Act are established by rules and regulations of the Secretary. The amounts received for fees are credited to the State Licensure Fee Fund administered by KDADS.

### ***Conditions for Denial, Refusal to Renew, Suspension, or Revocation of Registrations***

The bill allows the Secretary to deny, refuse to renew, suspend, or revoke a registration if the operator or applicant has committed any of the following:

- Has obtained, or attempted to obtain, a registration by means of fraud, misrepresentation or concealment of material facts;
- Has a finding of abuse, neglect, or exploitation against a resident of an adult care home;
- Has been convicted of a crime found by the Secretary to have direct bearing on whether the registrant or applicant can be trusted to serve the public in the position of an operator;
- Has violated a lawful order, rule, or regulation of the Secretary;

- Had disciplinary action taken against the operator on a professional or occupational healthcare credential issued by Kansas or another jurisdiction; or
- Has violated any provisions of the Act.

The Secretary is authorized to order a denial, refusal to renew, suspension, or revocation of a registration based on any of the above-mentioned conditions after notice and hearing on the matter according to the provisions of the Kansas Administrative Procedure Act.

### ***Reinstatement of Revoked Registration***

A person whose registration has been revoked is allowed to apply to the Secretary for reinstatement. Acceptance or rejection of an application for reinstatement is at the Secretary's discretion, and a hearing is allowed to consider the reinstatement.

An individual seeking reinstatement is required to submit an application for reinstatement, pay a reinstatement fee, and meet the requirements for an individual seeking reinstatement of a registration that lapsed for failure to renew.

### ***Agency Name and Rule and Regulation Updates***

The bill updates state agency references and removes an outdated rule and regulation reference from the Adult Care Home Licensure Act to reflect changes made by 2012 Executive Reorganization Order No. 41. Specifically, the bill replaces references to the Secretary of Aging and the Department on Aging with the Secretary for Aging and Disability Services and the Department for Aging and Disability Services, respectively; replaces the Secretary of the Department of Social and Rehabilitation Services with the Secretary for Children and Families; and allows the Kansas Department of Health and Environment (KDHE) regulations administered by the KDHE Health Occupations Credentialing (HOC) unit to be deemed rules and regulations of KDADS, where the HOC unit was relocated.

## AGRICULTURE AND NATURAL RESOURCES

### Controlled Shooting Areas; SB 272

**SB 272** increases a limitation on controlled shooting areas (CSAs) acreage. The prior law directed the Secretary of Wildlife, Parks and Tourism to limit CSAs so that the total acreage licensed as CSAs in a county could not exceed 3 percent of the county's total acreage. The bill increases this limitation to 5 percent.

### Establishing Board of Veterinary Examiners in Department of Agriculture; SB 278

**SB 278** transfers all duties, powers, employees, and funding of the Board of Veterinary Examiners into the Division of Animal Health in the Kansas Department of Agriculture for a two-year period beginning on July 1, 2014. The bill suspends the statutory 10.0 percent revenue transfer from the Veterinary Examiners Fee Fund to the State General Fund for services provided by the Department of Administration for FY 2015 and FY 2016.

The Executive Director of the Board will be jointly appointed by the Board and the Animal Health Commissioner. The Board retains rules and regulations authority, and proposed rules and regulations would be formally proposed by the Secretary of Agriculture. The Secretary is prohibited from adopting any rule or regulation without approval by the Board.

### Department of Agriculture Fees; Local Food and Farm Task Force; National Day of the Cowboy; SB 286

**SB 286** extends the sunset from July 1, 2015, to July 1, 2018, on various fees that are currently charged by the Kansas Department of Agriculture (KDA). In addition, the bill adds two fee exemptions for milk processors that process or manufacture milk at the dairy where the milk is produced.

The bill also establishes the Local Food and Farm Task Force. The Task Force is responsible for preparing a local food and farm plan containing policy and funding recommendations in order to increase locally grown food production. The Task Force is composed of seven members, as follows:

- Three members appointed by the Governor, including the Chairperson;
- One member representing the KDA;
- One member representing the Kansas State University Extension Systems and Agricultural Research Programs, appointed by the Dean of the College of Agriculture; and
- One member from the House Committee on Agriculture and Natural Resources and one from the Senate Committee on Agriculture, each appointed by the respective chairperson and representing different political parties.

In addition, the bill designates the last Saturday in July of each year as National Day of the Cowboy in the state. The bill authorizes and directs the Governor to annually issue a

proclamation calling upon state officials to display the U.S. flag on the last Friday of July, declare the date to be the National Day of the Cowboy, and invite people of the state to observe the day. The bill also authorizes and directs the Governor to display the National Day of the Cowboy flag on the grounds of the Capitol on the last Friday of July each year. The bill requires the KDA to provide education and outreach for the National Day of the Cowboy.

### **Hunter Education Deferrals; Purchase of Land in Cherokee and Pottawatomie Counties; Unlawfully Taken Wildlife Items; SB 357**

**SB 357** increases the number of deferrals from one to two for the completion of hunter education for a person who is 16 or more years of age. Each deferral will be valid until the end of the license year in which a license is purchased.

The bill also authorizes the Department of Wildlife, Parks and Tourism (KDWPT) to purchase a parcel of land of approximately 398 acres in Cherokee County and a parcel of land of approximately 484 acres in Pottawatomie County.

In addition, the bill changes the options available to KDWPT in disposing of unlawfully taken wildlife items. Under the bill, the KDWPT is required to first offer the seized item to the landowner or tenant on whose property the wildlife parts were unlawfully taken, provided:

- The wildlife parts are no longer needed as evidence;
- The location of the violation can be positively ascertained;
- There is no dispute between landowners or tenants as to who may receive the wildlife parts;
- The landowner or tenant did not commit the violation for which the wildlife parts were seized; and
- The wildlife parts are transferred within two years of adjudication of the violation.

If the landowner or tenant declines the offer, the KDWPT may dispose of the seized item by any of the following methods:

- Sell the seized item (existing law);
- Retain the seized item for educational, scientific, or department operational purposes (existing law); or
- Destroy the item (new law).

### **State Sovereignty; Lesser and Greater Prairie Chickens; Senate Sub. for Sub. for HB 2051**

**Senate Sub. for Sub. for HB 2051** establishes the State Sovereignty Over Non-Migratory Wildlife Act.

The bill declares the authority for the State Sovereignty Over Non-Migratory Wildlife Act comes from the 10<sup>th</sup> Amendment to the *U.S. Constitution* and Article II, Section 1 of the *Kansas Constitution*.

The bill establishes the state as having the sole regulatory authority to govern the management, habitats, hunting, and possession of lesser and greater prairie chickens that exist within the state. In addition, the bill establishes that lesser and greater prairie chickens and their habitats existing within the state are not subject to the Endangered Species Act of 1973 (Act) or to any federal regulations or executive actions related to the Act. Any federal regulation or executive action pertaining to the federal Act that purports to regulate the lesser or greater prairie chickens, their habitats, farming practices that affect these species, or other human activity that affect these species are to have no effect within Kansas.

The bill also allows the county or district attorney, or the Kansas Attorney General, to seek to enjoin any official, agent, employee of the federal government, or employees of corporations providing services on behalf of the federal government from enforcing any federal regulation or executive action pertaining to the Act that purports to regulate the lesser or greater prairie chickens, their habitats, farming practices that affect these species, or other human activity having an impact on these species within Kansas.

The bill must not be construed to infringe on the authority of the U.S. Department of Agriculture, the U.S. Environmental Protection Agency, or state agencies that have delegated authority to administer the federal Water Pollution Prevention and Control Act or the Clean Air Act when the entities are administering conservation programs or engaging in other activities that may apply to the lesser or greater prairie chickens, their habitats, farming practices that affect these species, or other human activity having an impact on these species or their habitats within Kansas.

In addition, the bill is not be construed to infringe on the authority of the Kansas Department of Wildlife, Parks and Tourism or any citizen participating in a management plan or a conservation plan pertaining to the lesser prairie chicken that may be developed in conjunction with the U.S. Fish and Wildlife Service and applies to the lesser or greater prairie chickens, their habitats, farming practices that affect these species, or other human activity having an impact on these species or their habitats within Kansas.

Further, the bill includes a severability clause, maintaining the remaining provisions of the bill in the event any of the sections of the bill are found to be invalid.

### **Permit Requirements for Surface Mining; HB 2547**

**HB 2547** reduces, from five to one, the number of copies of U.S. Geological Survey topographic maps required to be submitted to the Kansas Department of Health and Environment when an entity applies for a surface mining permit.

### **Water Program Management Fund and Air Quality Fee Fund; HB 2548**

**HB 2548** establishes the Water Program Management Fund. Moneys deposited into the fund will come from permit fees for confined animal feeding facilities and permit fees for truck washing facilities for animal wastes established by the Secretary of Health and Environment. In addition, moneys will be deposited into the fund from interest attributable to investment of

moneys in the fund; gifts, grants, or appropriations to be used for the purposes of the fund; and any other moneys provided by law. Moneys in the fund will be used for monitoring and investigating the quality of water of the state, payment of the state's share of U.S. Clean Water Act matching costs, payment for emergency action to assure public health or safety, payment of certain administrative and legal costs, and development of educational materials and programs for informing the public about water issues. The bill requires that an annual report be prepared and delivered to the Legislature regarding expenditures, fund revenues, and recommendations regarding the adequacy of the fund on or before the first day of each regular session of the Legislature.

In addition, the bill requires moneys from annual emission fees and approval fees which are fixed, charged, collected, or renewed to pay for the administration of the Kansas Air Quality Act by the Secretary of Health and Environment to be deposited in the Air Quality Fee Fund rather than the State General Fund.

### **On-site Disposal of Solid and Hazardous Waste; HB 2549**

**HB 2549** adds an additional exception to the general prohibition of the underground burial of hazardous waste. The new exception permits the on-site disposal or consolidation of solid and hazardous wastes, including soils, sediments, and debris, if the wastes are generated as the result of a clean-up and approved by the Secretary of Health and Environment. The exception in the bill includes clean-up from adjacent or nearby property under separate ownership when it is a part of the approved clean-up.

### **Atmospheric Mercury Monitoring; PCB Disposal Facilities; Plastic Bottle Labeling; HB 2551**

**HB 2551** amends a requirement that the Secretary of Health and Environment establish a statewide atmospheric mercury monitoring network to measure mercury deposition in Kansas. Requirements for a certain number of monitoring sites and the frequency of collecting samples are removed. In addition, the Secretary is no longer required to submit annual reports to the Governor and Legislature regarding the findings and analysis of the monitoring.

The bill also repeals a series of statutes that required the Kansas Department of Health and Environment to regulate polychlorinated biphenyls (PCBs) processing and disposal facilities. (PCBs are a type of nonflammable and stable synthetic oil historically used in electrical transformers and in other products including paint, caulk, and various hydraulic and insulating oils. Production was banned in 1979 based upon toxicity and suspicion that it was a carcinogen.)

The bill also modifies requirements regarding plastic resin codes on plastic bottles and rigid plastic containers. In addition, the bill amends solid waste plan restrictions enacted by the Legislature in 2013.

The bill requires plastic bottles and rigid plastic containers distributed, sold, or offered for sale in Kansas to be labeled, on or near the bottom, with a nationally recognized code indicating the plastic resin used to produce the bottle or container. Before the passage of the bill, the law specified the graphic symbol and the resin coding numbers to be used.

The bill specifies that solid waste plan restrictions adopted by the 2013 Legislature apply to any landfill, including those in operation before July 1, 2014. The bill also requires a city or county to meet both conditions in law for adopting restrictions, rather than just one of the conditions. (The 2013 legislation prohibited a city or county from adopting restrictions for a landfill within its boundaries if those restrictions would impair the legislation of another city or county that also uses the landfill or if the restrictions would require the other city or county to adopt solid waste management requirements not required by statewide rules or regulations.)

## ALCOHOL, DRUGS, AND GAMBLING

### Proposal To Authorize Raffles; Sub. for SCR 1618

**Sub. for SCR 1618** submits a state constitutional amendment for consideration at the next general election in November 2014. The amendment, if approved by voters, will allow charitable raffles by certain nonprofit organizations.

The proposal will amend Section 3 of Article 15 in the *Kansas Constitution* to permit “raffles” if authorized by the Legislature. The amendment will allow the Legislature to authorize the licensing, conduct, and regulation of charitable raffles by nonprofit, religious, charitable, fraternal, educational, or veterans organizations.

“Raffle” is defined in the proposed amendment to mean a game of chance in which each participant buys a ticket or tickets from one of the above mentioned organizations, with each ticket providing an equal chance to win a prize and the winner being determined by a random drawing. The following limitations also are included in the constitutional amendment:

- An organization shall not be able to use an electronic gaming or vending machine to sell tickets or conduct raffles;
- An organization shall not contract with a professional raffle or other lottery vendor for the management, operation, or conduct of any raffle; and
- Raffles shall be licensed and regulated by the Office of Charitable Gaming, in the Department of Revenue, or by a successor agency.

(Note: Section 3 of Article 15 of the *Kansas Constitution* prohibits lotteries and the sale of lottery tickets. Voters previously approved three amendments to Section 3, allowing exceptions for bingo (Section 3a. in 1974), parimutuel wagering (Section 3b. in 1986), and a state-owned and -operated lottery (Section 3c. in 1986). This proposal adds a fourth exception in the amendment for raffles, if approved by the voters.)

### Amendments to the Liquor Control Act: Homemade Fermented Beverages, Microbrewery Gallonage, Licensee Citizenship; Sub. for HB 2223

**Sub. for HB 2223** modifies three provisions of the Kansas Liquor Control Act.

The bill allows a homemade fermented beverage to be provided to guests and judges at a contest or competition, so long as no compensation is provided to the maker either for producing the beverage or allowing its consumption. The term “guest” is defined as a natural person known to the host and who received a private invitation to the event conducted by the host.

The bill raises the allowable number of barrels of domestic beer, from 15,000 to 30,000, that may be produced in a calendar year by a Kansas microbrewery licensee.

The bill also modifies the current citizenship requirement for a Liquor Control Act licensee to only require U.S. citizenship.

### **Southeast Kansas Expanded Lottery Act Amendment; HB 2272**

**HB 2272** modifies the Kansas Expanded Lottery Act, addressing the southeast Kansas gaming zone and certain statutory requirements for a lottery gaming facility in that zone.

The bill reduces the statutorily defined minimum financial requirements for a destination-type casino in one gaming zone by lowering:

- The minimum investment in infrastructure for a facility in the southeast Kansas lottery gaming zone from \$225.0 million to \$50.0 million; and
- The required privilege fee for the lottery gaming facility manager of the facility in the southeast Kansas gaming zone from \$25.0 million to \$5.5 million.

### **Uniform Controlled Substances Act—Adding Certain Drugs and Drug Classes to the Schedules of Controlled Substances; Senate Sub. for 2298**

**Senate Sub. for HB 2298** amends the statutes governing controlled substances to add several additional drugs or drug classes to the schedules of controlled substances. Specifically, the bill adds 14 hallucinogenic drugs, two classes of cannabinoids, and a cannabinoid class name to schedule I; two anabolic steroids to schedule III; and lorcaserin to schedule IV.

## BUSINESS, COMMERCE, AND LABOR

### Unemployment Insurance—Penalty Proceeds; Dissemination of Information; SB 371

**SB 371** requires proceeds from the penalty for fraud, which is equal to 25.0 percent of the amount of unemployment insurance (UI) benefits unlawfully received, to be deposited into the Employment Security Trust Fund.

The Secretary of Labor may publish appeals records, precedential determinations on coverage of employers, and employment and wages after all Social Security numbers have been removed from these documents. The bill allows disclosure of any information obtained under the UI laws for criminal investigations or for the use of a contractor of a public official. Any party receiving confidential information is prohibited from further disclosure and will be subject to penalties for violations.

### Revisions to Unemployment Insurance (UI) Shared Work Program; SB 372

**SB 372** revises provisions of employment security law, commonly referred to as Unemployment Insurance (UI), pertaining to the Shared Work Unemployment Compensation Program. This voluntary program is a means by which an employer may reduce the number of hours worked by employees without having to lay off workers. Affected employees receive a *pro rata* share of regular UI benefits equal to the percentage of hours for which employees' work was reduced. Under previous law, the Secretary of Labor could approve a shared work plan proposed by an employer when eight conditions were met:

- The specific work unit of full-time employees to be affected by the reduced hours of work is identified;
- The individual employees within the work unit are identified by name and Social Security number;
- The number of hours of work and the amount of wages paid, on a weekly basis, have been reduced by at least 20 percent, but by no more than 40 percent;
- The shared work plan applies to at least 10 percent of the employees in the affected work unit;
- The shared work plan addresses how fringe benefits will be affected;
- The employer certifies that the implementation of the shared work plan would prevent temporary layoffs;
- The employer has filed all UI reports and is current in all contributions owed; and
- The employer is eligible for a positive rate contribution and is not a negative account employer.

The bill revises three of the above requirements. Shared work plans cover regular part-time employees in addition to full-time employees. Employers must certify that health and retirement benefits will continue either under the same terms and conditions as though the employees' work had not been reduced or to the same extent as other employees not participating in the Shared Work program will be affected. Averted layoffs are not required to be temporary.

The bill also adds three additional requirements to shared work plans:

- Eligible employees may participate in training, including training funded by the federal Workforce Investment Act;
- The employer must give advance notice to affected employees as to an estimate of the number of layoffs that would have occurred absent participation in the Shared Work Program; and
- The shared work plan and the implementation of the plan must be consistent with federal and state law.

Finally, the bill repeals the prohibition placed upon receiving Shared Work benefits if an employee works more hours than initially estimated in the shared work plan; the allowable range for reduced work hours, a reduction between 20 percent to 40 percent, remains in effect.

### **Cemetery Regulation and Licensing of Certain Contractors; HB 2172**

**HB 2172** makes changes to laws regarding cemetery pre-need merchandise, the permanent maintenance fund, and reporting. The bill also changes the education requirement for certain contractors who elect to satisfy part of the licensing requirement for their profession with trade-related schooling, as allowed by statute.

#### ***Cemetery Provisions***

The bill makes the following changes:

- Specifies that payments received by a cemetery corporation as part of an installment pre-need cemetery merchandise contract that includes burial spaces must first be allocated to the permanent maintenance fund. Once the burial spaces have been paid in full, pre-need merchandise and services products continue to be funded as required by existing law;
- Requires cemetery corporations to report information regarding the cemetery merchandise trust fund to the Secretary of State on a quarterly basis rather than monthly;
- Creates definitions for the terms “burial lot,” “burial space,” “community mausoleum,” “garden mausoleum,” and “niche”;

- Modifies the definition of “funding requirement” as it relates to that portion of the purchase price set aside in the permanent maintenance fund to mean the following: 15 percent of the purchase price of a burial lot, but not less than \$25; 10 percent of the purchase price of a community mausoleum crypt, but not less than \$100; or 5 percent of the purchase price for each garden mausoleum crypt or niche, but not less than \$50. Previously, “funding requirement” as it related to the permanent maintenance fund was equal to 15 percent of the purchase price of a burial space, but not less than \$25;
- Modifies the definition of “purchase price” related to cemetery burial space to subtract any amount included in the total for permanent maintenance but specifies that the purchase price stated in the contract may include the amount of the funding requirement;
- Further specifies that the definition of “purchase price” does not include burial fees charged by the Secretary of State;
- Modifies the definition of “abandoned cemetery” to be applicable when either of two separate circumstances apply: when a cemetery has been abandoned for a year or when records have not been maintained for 180 days. Previously, both conditions had to be met;
- Extends by 15 days the time allowed after moneys are received before those moneys must be deposited to the permanent maintenance fund or the cemetery merchandise trust fund;
- Allows taxes from capital gains related to the permanent maintenance fund to be paid from the realized capital gains proceeds; and
- Makes several technical changes.

### ***Educational Requirements for Certain Contractors***

The bill also changes the education requirement for certain contractors who elect to satisfy part of the licensing requirement for their profession with trade-related schooling, as allowed by statute.

The bill changes the educational requirement from 240 hours classroom training to 930 program hours documented by a certificate of completion.

The change affects plumbers seeking a journeyman certificate; electricians seeking a journeyman or residential certificate; and heating, ventilation, and air conditioning (HVAC) mechanics seeking a journeyman HVAC mechanic certificate in counties or cities that require licensing of those positions.

## **Bioscience Companies Eligible for Other Economic Development Incentives; HB 2440**

**HB 2440** allows the Kansas Bioscience Authority and the Secretary of Revenue to determine jointly that a business classified as a bioscience company based on the North American Industry Classification System industry codes would no longer be considered a bioscience company for the purposes of the Emerging Industry Investment Act, which is to foster growth of the bioscience industry in Kansas.

## **Unemployment Insurance—New Category of Employer Rates Created; Rate Discount; HB 2576**

**HB 2576** revises provisions of employment security law, commonly referred to as Unemployment Insurance (UI). Starting in rate year 2015, all new employers—both non-construction and construction employers—who started doing business in Kansas by July 1, 2014, or later are eligible for a UI contribution rate equal to either 2.7 percent of wages paid or, in the alternative, the UI rate paid by the employer in another state prior to moving to Kansas. To be eligible for the alternative rate, a new employer may submit a request with the Labor Department within 30 days of receiving notice of contributions owed and provide the following information:

- The new employer has been in operation in another state for a minimum of three years;
- Authenticated account history from the employer’s operations; and
- The business operations established in Kansas are of the same nature, as defined by the North American Industrial Classification System, as the operations in another state.

In no event may the alternative contribution rate be less than 1.0 percent. Under previous law, new non-construction employers who have less than 24 months of payroll history paid a contribution rate equal to 2.7 percent of wages paid, and new construction employers paid a rate equal to 6.0 percent.

The bill creates a new classification for employers, called “Entering and Expanding Employers.” An Entering and Expanding Employer is eligible to receive a new employer rate of 2.7 percent for four years, subject to approval by the Secretary of Labor. To be classified as such, an employer must meet the following criteria:

- There has been a 100 percent increase in the taxable payroll over the previous year, due to employment growth and not because of a change in the taxable wage base;
- The employer has a positive account balance, meaning the employer has contributed more to the UI System than what has been paid out in benefits to workers previously employed; and
- The employer maintains a positive account balance throughout the four years the reduced rate is in effect.

Starting in rate year 2014, employers who are not classified as negative balance employers (which are employers who have contributed less to the UI Trust Fund than what their former employees have taken out as benefits) are eligible for a contribution discount of 15.0 percent if all contributions have been paid by January 31.

Finally, the bill removes the cap placed on voluntary contributions made to the UI System that annually limits employers from reducing their rates by no more than five rate groups.

## CHILDREN AND YOUTH

### **Newborn Infant Protection Act—Anonymity of Parent Surrendering an Infant; HB 2577**

**HB 2577** amends the Newborn Infant Protection Act (Act) to expand the list of locations where an infant can be surrendered to include police stations, sheriff's offices, and law enforcement centers. Additionally, the bill protects disclosure of the name or other identifiable information of a parent or custodian who voluntarily surrenders physical custody of an infant under the Act, unless there is reasonable suspicion the infant has been abused, and protects the person or facility receiving the infant from civil and criminal liability for any action taken under the Act.

The parent or custodian is not required to reveal personally identifiable information but can offer information concerning the infant's familial or medical history. The bill also clarifies that the person or facility to whom an infant is delivered is prohibited from revealing the name or other identifiable information of the person who delivered the infant, unless there is reasonable suspicion the infant has been abused.

## CONCEALED CARRY

### Concealed Carry by Off-Duty and Retired Law Enforcement Officers; HB 2140

**HB 2140** creates new law allowing in-state, off-duty and retired law enforcement officers, as well as out-of-state law enforcement officers and retired law enforcement officers, who meet the requirements of the federal Law Enforcement Officers Safety Act to carry a concealed handgun in any building where an on-duty law enforcement officer is authorized to carry a concealed handgun. The bill allows these active and retired officers to conceal carry handguns in buildings prohibiting the concealed carry of firearms and conforming to the security and signage requirements specified in either KSA 2013 Supp. 75-7c10 (restrictions on carrying) or 75-7c20 (concealed handguns in public buildings).

The provisions of the bill do not apply to buildings where the possession of firearms is prohibited or restricted by order of the chief judge of a judicial district or by federal law or regulation. The provisions of the bill also do not apply to any officer or retired officer who is denied a concealed carry handgun license or whose concealed carry handgun license has been suspended or revoked under the provisions of the Personal and Family Protection Act.

In-state officers and retired officers are required to remain in compliance with the firearms policies of their law enforcement agency; are required to possess identification as required by that agency; and are required to present such identification when requested by other law enforcement officers or persons of authority for the building where they are concealed carrying.

Similarly, out-of-state officers and retired officers meeting the requirements of the federal Law Enforcement Officers Safety Act are required to possess identification as required by the federal law and are required to present that identification when requested by other law-enforcement officers or persons of authority for the buildings where they are concealed carrying.

The bill defines "law enforcement officer" as:

- Any person employed by a law enforcement agency, who is in good standing and is certified under the Kansas Law Enforcement Training Act;
- A law enforcement officer who obtained a similar designation in a jurisdiction outside the state of Kansas and within the United States; or
- A federal law enforcement officer who as part of such officer's duties is permitted to make arrests and to be armed.

The bill defines "person of authority" as any person who is tasked with screening persons entering the building or who otherwise has the authority to determine whether a person may enter or remain in the building.

The provisions of the indemnification section for municipalities found in 2014 HB 2578 do not apply to those employees required to carry a firearm as a condition of their employment.

**Weapons—Firearms Transfer; Concealed Carry; Open Carry; Regulation by Local Government; Forfeiture, Return, and Buyback of Firearms; Criminal Use; Criminal Possession; HB 2578**

**HB 2578** creates new law concerning the transfer of certain federally regulated firearms. The bill also amends current statutes and creates new provisions of law concerning the regulation and possession of weapons, including firearms, handguns, and knives.

Specifically, the bill addresses:

- Transfers of certain federally regulated firearms;
- Concealed carrying of handguns;
- Open carrying of firearms;
- Regulation of firearms and knives by local units of government;
- Forfeiture, return, and buyback of firearms;
- Criminal use of weapons; and
- Criminal possession of weapons.

***Transfer of Federally Regulated Firearms***

Under the provisions of the bill, applications for certification of firearms' transfers by the local jurisdiction's chief law enforcement officer, as required by federal law, must be granted within 15 days, unless a condition exists that prevents the chief law enforcement officer from certifying the transfer, as specified in 27 CFR § 479.85. The bill provides that a generalized belief by the chief law enforcement officer that certain firearms have no lawful purpose and that certain persons should not possess such firearms shall not be sufficient reason to deny certification requests.

If the request for certification is not granted, the chief law enforcement officer, or someone designated by the officer, is required to provide the applicant with written notification of the denial of certification and the reason for the denial.

The bill also allows applicants to appeal denials of requests for certification of firearms' transfers in the district court of the county where the applicant resides. After reviewing the denial of certification, if the district court finds the applicant is not prohibited by state or federal law from receiving the firearm and there is no pending legal or administrative proceeding against the applicant that could result in such prohibition, the court is required to order the chief law enforcement officer to issue the certification.

Chief law enforcement officers certifying and approving transfers under the provisions of the bill are not liable for any act committed by another person with the firearm after the transfer.

The bill adopts definitions for the terms "certification" and "chief law enforcement officer" from 27 CFR § 479.85, and adopts the definition of "firearm" from 26 USC § 5845.

### ***Concealed Carrying of Firearms***

The bill creates new prohibitions for municipalities related to their employees and specifically to employees who are concealed carry of handgun license holders. Municipal employers of concealed carry license holders cannot require disclosure by municipal employees who possess concealed carry of handgun licenses. Municipalities cannot terminate, demote, discipline, or otherwise discriminate against an employee based on the employee's refusal to disclose the employee's status as a concealed carry license holder. Municipal employers are prohibited from creating a record of any employee's possession or disclosure of a concealed carry license. The bill requires any such records created by a municipality before the effective date of the bill be destroyed by July 31, 2014.

The bill adds a conviction for any of the offenses in KSA 2013 Supp. 21-6304(a)(1) (criminal possession of a weapon), as amended elsewhere in this bill, to include all weapons, and not only firearms, as a reason the Attorney General will deny an application for a concealed carry handgun license. This provision also requires the Attorney General to deny the concealed carry application of an applicant whose juvenile offenses, had the offenses been committed by an adult, would have constituted the commission of any of the offenses in KSA 2013 Supp. 21-6304(a)(1).

### ***Open Carrying of Firearms***

The bill adds new posting requirements for buildings where the open carrying of firearms can be prohibited as authorized in this legislation. The new provision makes it a violation of this statute to carry an unconcealed firearm into a building that was conspicuously posted according to the new requirements and posted in accordance with rules and regulations the bill requires the Attorney General to adopt.

The bill replaces the law concerning the operation, possession, or carrying of a concealed handgun under the influence of alcohol or illegally used controlled substances with a new provision applying the penalties for possessing or carrying any firearm under the influence, not just concealed handguns addressed in prior law.

The bill defines "possession of a firearm under the influence" as knowingly possessing or carrying a loaded firearm on or about such person, or within such person's immediate access and control while in a vehicle, while under the influence of alcohol or drugs, or both, to such a degree as to render such person incapable of safely operating a firearm. The bill amends the standards of evidence to be used in prosecutions related to possession of firearms under the influence to make them more consistent with existing law related to driving under the influence of drugs or alcohol. The bill also establishes civil penalties for refusal to submit to testing required under the bill (\$1,000 for each violation) and license revocations for concealed carry license holders after conviction of possession of a firearm while under the influence (revocation of concealed carry license for a minimum of one year for a first offense and three years for a second or subsequent offense).

### ***Regulation of Firearms and Knives by Local Units of Government***

Statutes passed during the 2013 Session are expanded to prohibit cities and counties from adopting or enforcing ordinances, resolutions, regulations, or administrative actions

governing the purchase, transfer, ownership, storage, carrying, or transporting of firearms, ammunition, or any related component. Cities and counties also are prohibited from adopting or enforcing any ordinances, resolutions, or regulations relating to the sale of firearms by individuals having federal firearms licenses, if the local controls are more restrictive than any other ordinance, resolution, or regulation governing the sale of any other commercial good. Ordinances, resolutions, or regulations adopted before the effective date of the bill are deemed null and void.

Cities and counties are permitted to adopt ordinances, resolutions, or regulations pursuant to the law pertaining to concealed handguns in public buildings (KSA 2013 Supp. 75-7c20) relative to the personnel policies governing concealed carry of handguns by city or county employees, so long as in compliance with this law.

A new provision shields local units of government from being liable for the wrongful acts or omissions related to carrying a firearm, including acts or omissions by municipal employees.

The bill repeals statutory provisions delegating to local units of government the authority to regulate open carry and transportation of a firearm.

Legislation from the 2013 Session is expanded with regard to municipal regulation of knives. Municipalities cannot enact or enforce any ordinance, resolution, regulation, or tax relating to the transportation, possession, carrying, sale, transfer, purchase, gift, devise, licensing, registration, or use of a knife or knife-making components. Any ordinance, resolution, regulation, or tax relating to the transportation, possession, carrying, sale, transfer, purchase, gift, devise, licensing, registration, or use of a knife or knife-making components that is more restrictive than regulation on any other commercial product is prohibited. Such ordinances, resolutions, regulations, or taxes adopted prior to the effective date of the bill are void.

Additionally, individuals cannot be prosecuted for violating municipal regulations on knives or knife-making components between July 1, 2013, and the effective date of the bill (July 1, 2014). Violations occurring before the effective date are added to the list of reasons for which a court will be required to order expungement of an individual's record. Any person convicted of any municipal violation before the effective date will be given the ability to petition the court for expungement.

### ***Forfeiture and Return of Firearms***

The bill repeals certain provisions concerning the forfeiture of firearms, adding new language that weapons or ammunition not covered elsewhere by statutes must be, at the discretion of the court:

- Forfeited to the law enforcement agency that seized the weapon for sale or trade to a licensed federal firearms dealer;
- Forfeited to the Kansas Bureau of Investigation for law enforcement, testing, or comparison by the forensic laboratory;
- Forfeited to a county forensic laboratory for law enforcement, testing, or comparison; or

- Forfeited to the Kansas Department of Wildlife, Parks and Tourism for use pursuant to KSA 2013 Supp. 32-1047 (seizure of wildlife, devices, equipment, and firearms).

The bill also addresses the return of seized weapons. Individuals not convicted of a violation and not prosecuted as juveniles must be notified that the weapon can be retrieved by the individuals after the law enforcement agency verifies the weapon is not stolen. Such notification must include the location where the weapon can be retrieved and occur within 30 days of the conclusion of prosecution. Weapons that cannot be returned, are not forfeited because of the condition of the weapon, or were used in the case of a murder or manslaughter will be destroyed.

The existing statute concerning forfeiture (KSA 2013 Supp. 21-6307) is repealed, and the new forfeiture provisions are moved to the general criminal procedures statute found in KSA 2013 Supp. 22-2512.

### ***Firearms Buyback Programs***

The bill prohibits local government taxes from being used to implement, administer, or operate a firearms buyback program. A firearms buyback program is defined in the bill as “any program wherein individuals are offered the opportunity to gift, sell, or otherwise transfer ownership of such individual’s firearm to a city or county.”

### ***Criminal Use of Weapons***

Daggers, dirks, dangerous knives, straight-edged razors, and stiletos are added to the list of prohibited weapons, and the possession of any such dangerous weapon with the intent to use it against another person now constitutes the crime of criminal use of a weapon.

The bill adds language to existing law, exempting use of a firearm with a barrel less than 12 inches by a person less than 18 years of age, at a private range with permission of that person’s parent or legal guardian, from the crime of criminal use of a weapon. The bill also deletes language requiring a person who is less than 18 years of age to know or have reason to know that the barrel of the firearm that a person possesses is less than 12 inches long in order to be guilty of criminal use of a weapon.

### ***Criminal Possession of Weapons***

The bill broadens language in KSA 2013 Supp. 21-6304 (criminal possession of a firearm by a convicted felon) to refer to criminal possession of a weapon instead of criminal possession of only a firearm. Additionally, the bill adds references to a previous version of the drug code to ensure that conviction of drug crimes gives rise to the crime of criminal possession of a weapon.

## CORRECTIONS AND JUVENILE JUSTICE

### **Prison Made Goods Act—Juvenile Employment; Correctional Industries Fund—Workers Compensation Insurance; House Sub. for SB 40**

**House Sub. for SB 40** amends the Prison Made Goods Act to allow the employment of juvenile offenders in industries established by the Secretary of Corrections. Additionally, the bill removes an expired provision allowing the sale of prison-made articles, products, and services to Kansas residents and businesses.

The bill also amends the statute creating the Correctional Industries Fund to allow moneys in the Fund to be used to purchase workers compensation insurance for inmates assigned to a certified prison industry enhancement certification program (PIECP) customer model industry owned and operated by Kansas Correctional Industries. Subject to PIECP wage-level requirements, inmates assigned to the program will have the same status as inmates assigned to a traditional industries program and will not be regarded as state employees.

### **Victim Notification; SB 248**

**SB 248** amends the requirement that the Secretary of Corrections provide written notice to victims or their families when the inmate committing the crime is released. Specifically, the Secretary will be required to provide such notice at least 14 working days prior to the inmate's release, unless the release is due to court order, escape, or death. The bill provides that this section shall be known and cited as "Adrian Olajuwon Crosby and Dominique Nathaniel Tyree Green's Law."

The bill also transfers the responsibility for victim notification of a defendant's commitment as incompetent to stand trial or not guilty by reason of mental disease or defect, as well as related hearings or the escape or death of a committed defendant, from the Secretary of Corrections to the district or county attorney.

### **Statute of Limitations and Permissible Orders for Sentencing Juvenile Offenders; SB 329**

**SB 329** amends the statute of limitations for juvenile offenses and law regarding permissible orders when sentencing a juvenile offender.

The bill amends the statute of limitations for several offenses under the Kansas Juvenile Justice Code. Proceedings for rape, aggravated criminal sodomy, capital murder, terrorism, or illegal use of weapons of mass destruction can be commenced at any time.

Proceedings for an act that would constitute a sexually violent crime, if committed by an adult, can commence within 10 years when the victim is 18 years old or older. When the victim is younger than 18 years old, the bill allows for such proceedings to commence within 10 years of the date the victim turns 18 years of age. The bill does not affect existing law allowing a proceeding for such offenses to be brought within one year of the date the identity of the suspect is conclusively established through DNA testing, if such period is later than the limitation period otherwise provided.

The bill defines, for purposes of the statute of limitations, when an offense is considered to be committed and the limitation period starts to run, as well as when a proceeding is considered to have commenced.

Finally, the bill allows a court, when sentencing a juvenile offender, to order the offender's parent to participate in "any evidence-based program designed to rehabilitate the juvenile," including, but not limited to, programs listed in existing law. The revised Juvenile Justice Code currently allows a court to order the offender's parent to participate in counseling, mediation sessions, an alcohol and drug evaluation and treatment program, or parenting classes.

### **Kansas Uniform Securities Act Amendments; HB 2433**

**HB 2433** amends the criminal penalties for an intentional violation of the Kansas Uniform Securities Act so that a violation committed against an elder person, as defined in Kansas consumer protection statutes (60 years of age or older), would be increased by one severity level. It is not a defense that the offender did not know the age of the victim or believed the victim was not an elder person.

The bill also amends the investor education provisions in the Act to rename the Investor Education Fund the "Investor Education and Protection Fund" and to allow resources from the fund to be used for protection initiatives, including enforcement and prosecution of securities fraud.

Finally, the bill removes obsolete language requiring a report regarding investor education that has been completed.

### **Revised Juvenile Justice Code—Alternative Adjudication Procedure, Risk Assessment, Prosecution of a Juvenile as an Adult, Placement Matrix, Good Time; Revised Code for Care of Children—Placement in Juvenile Detention Facility, Permanent Custody Options; Youth Residential Centers; Senate Sub. for HB 2588**

**Senate Sub. for HB 2588** creates new law and amends existing statutes relating to juvenile placement, the Revised Kansas Juvenile Justice Code, and the Revised Kansas Code for Care of Children.

#### ***Alternative Adjudication Procedure***

The bill creates a new section in the Revised Kansas Juvenile Justice Code establishing an alternative adjudication procedure for misdemeanor-level juvenile offenses.

The bill states the Legislature's findings that certain circumstances may lead to offenses by juveniles who are a minimal threat to public safety, and in such cases it would further the interests of society and the juvenile to use an adjudication approach with less formal procedures, appropriate disciplinary sanctions, and provision of necessary services. The bill declares its purpose is to provide prosecutors with an alternative means of adjudication for juvenile offenders who are a minimal threat to public safety, for the benefit of the juvenile and society.

The bill allows a county or district attorney with jurisdiction over a misdemeanor-level offense to designate the alleged offender for the alternative adjudication either through the original complaint or by written notice filed with the court and services on the juvenile, juvenile's counsel, and juvenile's parent or legal guardian within 14 days of filing the complaint. Filing of a written application for diversion tolls the running of the 14-day period and resumes upon written denial of diversion.

The bill specifies that the Revised Juvenile Justice Code applies in the adjudication, with the following exceptions:

- If the court determines during the proceeding that there is probable cause to believe the child is a child in need of care (CINC), the court shall refer the matter to the county or district attorney, who shall file a CINC petition. The court also must refer the family to the Department for Children and Families for services. If the court finds the juvenile should be removed from the home, the court is allowed to place the juvenile in the temporary custody of the Secretary for Children and Families or any person willing to accept temporary custody, other than the child's parent. If the CINC case is presided over by a different judge, the county or district attorney is required to notify the court presiding over the proceeding under this section of pertinent orders in the CINC case;
- The court shall not commit the juvenile to a juvenile correctional facility for the offense or for a violation of a term or condition of disposition;
- The adjudication or violation of the terms and conditions of disposition, including placement failure, may not be used against the juvenile in a proceeding for a subsequent juvenile or adult offense. "Used against the juvenile" is defined;
- Upon completion of the case and termination of the court's jurisdiction, the court is required to order the adjudication expunged. The adjudication shall not be subject to provisions for retention in court files or law enforcement records, and other expungement requirements, limitations, and disclosure provisions shall not apply;
- The juvenile shall not be required to register as an offender as a result of the adjudication;
- The juvenile shall not be prosecuted as an adult or under extended jurisdiction juvenile provisions;
- Limitations on continued out-of-home placement shall not apply; and
- Trial under the alternative adjudication procedure would be to the court, and the right to trial by jury shall not apply.

The county or district attorney may withdraw the designation for alternative adjudication proceedings at any time prior to the beginning of a hearing at which the court could enter an order adjudicating the child as a juvenile offender, by providing notice to the court, the juvenile,

the juvenile's attorney and guardian *ad litem*, if any, and the juvenile's parent or legal guardian. The section then would no longer apply; the case would proceed; and the court would be able to grant a continuance upon request.

An adjudication under this procedure is an appealable order under the Code.

### ***Placement in Juvenile Detention Centers***

The bill creates new law within the Revised Kansas Code for Care of Children prohibiting a child alleged or found to be a child in need of care from being placed in a juvenile detention facility, unless such placement is necessary to protect the safety of the child and is authorized under certain sections of the Code, or the child is also alleged to be a juvenile offender and such placement is authorized by certain provisions within the Revised Kansas Juvenile Justice Code.

### ***Youth Residential Centers***

The bill also creates new law requiring the Secretary of Corrections to take certain actions and report those actions to the House Committee on Corrections and Juvenile Justice, the Senate Committee on Federal and State Affairs, and the Joint Committee on Corrections and Juvenile Justice Oversight by January 15, 2015. The required actions include:

- Conducting a cost study analysis of all youth residential centers (YRCs) for juvenile offenders under contract with the Department of Corrections, including detailed analysis of allowable expenses necessary to meet certain minimum requirements and identification of costs associated with program or other expenses that add value to services provided to juvenile offenders by YRCs beyond minimum requirements;
- Evaluating program needs within YRCs, comparing these needs with availability, and proposing modifications to align availability with needs;
- Developing a fee schedule for youth residential services, including daily payment rates for base services and rates for additions to base services;
- Developing a plan for performance-based incentive payment opportunities and a plan for integration of these payment opportunities into the fee schedule described above; and
- Developing a plan to measure performance and evaluate effectiveness of juvenile offender service providers.

### ***Removal of Secretary for Children and Families as a Permanent Custody Option***

The bill amends the Revised Kansas Code for Care of Children to remove the Secretary for Children and Families as a permanent custody option upon the relinquishment of parental rights.

### ***Amendments to the Revised Juvenile Justice Code***

The bill requires that when a pre-sentence investigation and report from a court services officer is ordered by a court after adjudication, the report is required to include a summary of the results from a standardized risk assessment tool or instrument, in addition to the contents required under existing law. The statute within the Kansas Criminal Code establishing the Correctional Supervision Fund is amended to allow moneys from the Fund to be used for the implementation of and training for use of a statewide, mandatory, standardized risk assessment tool or instrument for juveniles adjudicated to be juvenile offenders and for juvenile offender supervision programs.

The bill prohibits the prosecution of any juvenile less than 12 years of age as an adult.

The placement matrix category of serious offender II is amended to include only offenders adjudicated for an offense which would constitute a nondrug severity level 7, person felony with one prior felony adjudication. Under previous law this category also included severity levels 8, 9, and 10. The bill places severity levels 8, 9, and 10 within a new category designated “serious offender III.”

The placement matrix options for the category of serious offender III are the same as those for serious offender II, except offenders within the category of serious offender III may be committed to a juvenile correctional facility only if the judge conducts a departure hearing and finds substantial and compelling reasons to impose a departure sentence. The bill amends the placement matrix options for all levels of chronic offenders to include the same departure provision.

Finally, provisions excluding juvenile offenders serving minimum-term placement sentences imposed under the placement matrix from the “good time” system are removed.

## CRIMES AND CRIMINAL MATTERS

### Medicaid Fraud Control Act—Medicaid Fraud, Definition, Penalties, Fines; SB 271

**SB 271** amends the Medicaid Fraud Control Act as follows:

- Renames the crime of making a false claim, statement or representation to the Medicaid program to “Medicaid fraud”;
- Adds the intentional execution or attempt to execute a scheme or artifice to defraud Medicaid or any Medicaid contractor or subcontractor to the definition of the crime;
- Restructures the applicable severity levels so that, for each individual count involving an illegal claim, the severity level depends on the aggregate amount of payments illegally claimed, as follows:
  - \$250,000 or more, a severity level 3, nonperson felony;
  - At least \$100,000 but less than \$250,000, a severity level 5, nonperson felony;
  - At least \$25,000 but less than \$100,000, a severity level 7, nonperson felony;
  - At least \$1,000 but less than \$25,000, a severity level 9, nonperson felony; and
  - Less than \$1,000, a class A nonperson misdemeanor;
- Provides that, regardless of the aggregate amount of payments illegally claimed, an illegal claim resulting in great bodily harm to another person is a severity level 4, person felony;
- Provides that, regardless of the aggregate amount of payments illegally claimed, an illegal claim resulting in death is a severity level 1, person felony;
- Provides that in sentencing for Medicaid fraud, an act or omission by the defendant resulting in any Medicaid recipient receiving any service of lesser quality or amount than the service to which the recipient was entitled may be considered an aggravating factor in making a departure determination;
- Specifies that a person violating the provisions of this section may also be prosecuted for, convicted of, and punished for any form of battery or homicide;
- Provides definitions for “aggregate amount of payments illegally claimed” and “pecuniary harm”;

- Imposes a fine of \$1,000 to \$11,000 per violation on any person convicted of a violation of the act, if requested by the Attorney General, and directs the revenue from this fine to the False Claims Litigation Revolving Fund; and
- Makes technical changes to correct statutory and agency references.

**Fleeing and Eluding Police—Special Sentencing Rule, Previous Convictions;  
Sub. for HB 2442**

**Sub. for HB 2442** establishes a special sentencing rule for a third or subsequent violation of fleeing or eluding police. The sentence for such violation shall be presumptive imprisonment and shall be served consecutively to any prison sentence. This sentence is not considered a departure and is not subject to appeal.

The bill also amends the fleeing and eluding statute to clarify, within the definition of “conviction,” that it is irrelevant when determining whether a conviction is a first, second, third, or subsequent conviction for sentencing purposes whether an offense occurred before or after conviction for a previous offense.

Finally, the bill makes non-substantive amendments reorganizing the fleeing and eluding penalty provisions.

**DNA Collection, Interference with Judicial Process; Justice Reinvestment Act  
Amendments; DUI and Test Refusal Expungement; and Jury Conduct;  
Senate Sub. for HB 2448**

**Senate Sub. for HB 2448** amends portions of the law concerning DNA collection; interference with judicial process; provisions related to 2013 HB 2170, known as the Justice Reinvestment Act; driving under the influence (DUI) and test refusal expungement; and jury conduct.

***DNA Collection—Katie’s Law***

The bill amends the criminal code concerning the Kansas Bureau of Investigation’s (KBI’s) collection of DNA samples. This section is to be known as Katie’s Law.

The bill removes references to drawing blood and requires the specified persons to submit biological samples to the KBI when a person is fingerprinted as part of the booking procedure, or as soon as practicable. The KBI will provide the necessary kits and supplies for collection, and no profile records will be accepted for admission or comparison unless obtained in substantial compliance with the provisions of the bill by an accredited forensic laboratory meeting the national DNA index guidelines established by the Federal Bureau of Investigation. If the person’s DNA sample is not properly obtained, the person must provide another sample. Additionally, a sample collected by a law enforcement agency or juvenile justice agency in substantial compliance with the provisions of the bill, or any evidence based upon or derived from such sample, will not be excluded as evidence in any criminal proceeding on the basis that the sample was not validly obtained.

The bill also amends provisions outlining who is required to submit such a sample. Any person required to register as an offender pursuant to the Kansas Offender Registration Act must submit a sample. The bill clarifies that a person is required to submit a sample when arrested for or charged with lewd and lascivious behavior only if the crime was committed in the presence of a person 16 or more years of age. A person arrested for or charged with buying sexual relations must submit a sample only if such person is less than 18 years of age. Further, the bill specifies that persons who were incarcerated on May 2, 1991, for a crime committed prior to that date must submit a sample prior to final discharge or conditional release.

The bill makes it a class A nonperson misdemeanor for a person who has possession of or access to samples or profile records maintained by the KBI due to such person's employment or official position to disseminate such samples or records except in strict accordance with applicable laws, or for a criminal justice agency to request profile records without a legitimate need for such records. A conviction under these provisions constituted good cause for termination or licensure revocation or suspension.

The bill also strikes provisions that are outdated, makes other technical amendments, and defines key terms.

### ***Interference with the Judicial Process***

The bill provides it would be a class A misdemeanor for a person to knowingly make available personal information about a judge or the judge's immediate family member, if dissemination of such information poses an imminent and serious threat to the judge's safety or the safety of such judge's immediate family member, and the person making the information available knows or reasonably should know of the imminent and serious threat. Upon a second or subsequent conviction, this crime is a severity level 9, person felony. "Personal information" is defined as a judge's home address or telephone number; personal mobile telephone or pager number; personal e-mail address; a photo of the judge, an immediate family member, or the judge's home or motor vehicle; or an immediate family member's motor vehicle, place of employment, child care or day care facility, or public or private K-12 school. The bill also defines "immediate family member" and "judge."

### ***Justice Reinvestment Act***

The bill modifies several provisions created or amended by or otherwise related to the Justice Reinvestment Act, which made numerous changes to sentencing, probation, and postrelease supervision statutes. Specifically, the bill:

- Moves the provision allowing a judge in most felony cases to impose up to 60 days in a county jail upon revocation of a probation sentence or community corrections placement from the authorized dispositions for sentencing statute to the statute governing probation, community corrections, suspended sentence, and nonprison sanction violations, and clarifies that this provision is separate and distinct from other sanctions provided for violation of release conditions, shall not be imposed at the same time as the other sanctions, and shall be served concurrently if the offender is serving concurrent probation terms;

- Adds a similar “up to 60 day” sanction provision for misdemeanor violators, and specifies that such sanctions shall be served concurrently if the offender is serving concurrent probation terms;
- Clarifies that the intermediate sanctions that may be imposed by a court services officer or community corrections officer are applicable only if the original crime of conviction was a felony, with the exception of felony DUI, test refusal, domestic battery, forgery, and cruelty to animals convictions;
- Provides that for felony DUI, test refusal, domestic battery, forgery, and cruelty to animals convictions, the sanctions for misdemeanor violators will be imposed;
- Adds a two- to three-day confinement provision for misdemeanor violators, similar to that allowed for felony violators;
- Clarifies that the 120-day and 180-day incarceration intermediate sanctions will not be served by prior confinement credit;
- Specifies that intermediate sanctions are to be imposed concurrently if the offender is serving multiple probation terms concurrently;
- Adds a retroactivity provision to clarify that the violation sanctions apply to any violation occurring on or after July 1, 2013, regardless of the date the underlying crime was committed or the offender was sentenced for the underlying crime;
- Amends a provision allowing early discharge of low-risk offenders from supervision to change the standard for denial by the court of such discharge from “substantial and compelling reasons for denial” to “clear and convincing evidence that denial will serve community safety interests”; and
- Makes non-substantive amendments and adds statutory references to provide clarity and ensure consistency.

### ***DUI and Test Refusal Expungement***

The bill reduces the period from ten years to seven years, before which a person with a conviction of or diversion for DUI may petition for expungement of the conviction or diversion. The bill also raises the expungement period for a conviction of or diversion for refusal to submit to a test to determine the presence of alcohol or drugs (test refusal) from three years to seven years.

### ***Jury Conduct***

If the jury is permitted to separate either during the trial or after the case is submitted to them, the bill requires the court to admonish them to immediately report any attempt by another person to converse with them on any subject of the trial. The bill strikes language requiring the court to admonish the jury of its duty not to “form or express an opinion” on any subject of the trial until it is finally submitted to them. Instead, the bill requires the court to admonish the jury of its duty not to make any final determinations or express any opinion on any subject of the trial until the case is finally submitted to them.

The bill strikes language allowing the jury to request the officer to conduct them to the court to receive information on a point of law or to have the evidence read or exhibited to them in the presence of the defendant, unless the defendant voluntarily absents himself, and his counsel and after notice to the prosecuting attorney. In lieu of this procedure, subject to the court's discretion, the bill allows the jury, upon retiring for deliberation, to take any admitted exhibits into the jury room to review them without further permission from the court. The court can provide equipment to facilitate review. Further, the bill provides that the jury will be instructed that any question it wishes to ask the court about the instructions or evidence should be signed, dated, and submitted in writing to the bailiff. The court must notify the parties of the contents of the questions and provide them an opportunity to discuss an appropriate response. The bill requires the court to respond to all questions from a deliberating jury in open court or in writing and allows the court to grant a jury's request to rehear testimony. The bill also requires the defendant to be present during the discussion of such written questions and during response given in open court, unless such presence is waived. Written questions from the jury, the court's response, and any objections thereto will be made a part of the record.

Finally, the bill provides that the amendments establish a procedural rule and, as such, will be construed and applied retroactively.

### **Sentencing—Hard 50, Hard 25, Life Without the Possibility of Parole, Attempted Capital Murder, Felony Murder; HB 2490**

**HB 2490** amends various statutes related to criminal sentencing.

The bill establishes that a life sentence with a mandatory minimum term of imprisonment of 50 years (the Hard 50 sentence) is to be the default sentence when a defendant is convicted of premeditated first degree murder committed on or after July 1, 2014. The sentencing judge may impose a life sentence with a mandatory minimum term of imprisonment of 25 years (the Hard 25 sentence) if the judge reviews mitigating circumstances and finds substantial and compelling reasons to impose the lesser sentence. If the judge imposes the Hard 25 sentence, the judge must state on the record the substantial and compelling reasons for imposing the sentence.

The bill imposes the Hard 25 sentence for a conviction of attempted capital murder or for a conviction of first degree murder when classified as the killing of a human being committed in the commission of, attempt to commit, or flight from any inherently dangerous felony (felony murder).

For any of these sentencing provisions, if the defendant's criminal history classification would subject the defendant to presumptive imprisonment in a range exceeding 300 months (for a Hard 25 sentence) or 600 months (for a Hard 50 sentence), then the defendant shall instead be required to serve a mandatory minimum term equal to the sentence established under the sentencing guidelines.

The bill also amends various statutes to provide consistency and clarify that inmates sentenced to life without the possibility of parole are not eligible for sentence commutation, functional incapacitation release, parole, or out-of-state travel as a material witness. The Governor's commutation power is limited in death penalty cases to imprisonment for life without the possibility of parole. A person under sentence of death is not be eligible for functional

incapacitation release. Finally, the bill requires the presence of the defendant at every stage of trial in a prosecution for a crime punishable by life without the possibility of parole.

### **Interference with Law Enforcement; Giving a False Alarm; Alternative Sentencing for Veterans in Certain Circumstances; Senate Sub. for HB 2655**

**Senate Sub. for HB 2655** amends the crimes of interference with law enforcement and giving a false alarm and establishes new law related to the sentencing of veterans.

#### ***Interference with Law Enforcement***

The bill amends this crime to include falsely reporting to a law enforcement officer, law enforcement agency, or state investigative agency that a law enforcement officer has committed a crime or misconduct in the performance of the officer's duties, if the perpetrator knows this information is false and intends for the officer or agency to act upon such information.

The bill removes from the definition of this crime the act of falsely reporting to law enforcement that a crime has been committed or information concerning a crime, knowing that the information is false, and intending that law enforcement shall act in reliance on the information. The bill clarifies that the misdemeanor version of this crime may be committed by interfering with law enforcement in a non-criminal case.

#### ***Giving a False Alarm***

The bill amends this crime to raise the penalty from a class A, nonperson misdemeanor to:

- A severity level 10, nonperson felony if the perpetrator uses an electronic device or software to alter, conceal, or disguise the identity of the person making the transmission or call; and
- A severity level 7, nonperson felony if the request for emergency assistance includes false information that violent criminal activity or immediate threat to a person's life or safety is taking place.

#### ***Sentencing of Veterans***

The bill enacts new law and amends existing statutes to allow a defendant at the time of conviction or prior to sentencing to assert that the offense was committed as a result of mental illness, including post-traumatic stress disorder, stemming from service in a combat zone while in the U.S. Armed Forces. Under the provisions of the bill, the court must hold a hearing to determine the following:

- Whether the defendant served in a combat zone while in the U.S. Armed Forces, as proven by a certification by the executive director of the Kansas Commission on Veterans' Affairs;

- Whether the defendant has separated from the armed forces with an honorable discharge or a general discharge under honorable conditions;
- Whether the defendant suffers from a mental illness; and
- If present, whether the mental illness was caused or exacerbated by service in a combat zone.

If the court determines the defendant has met the criteria established by the bill and the defendant's current crime and criminal history fall within a presumptive non-prison category under the sentencing guidelines, the court may order the defendant to undergo treatment. The bill allows the court to order the defendant to undergo either inpatient or outpatient treatment at any treatment facility or program operated by the U.S. Department of Defense, the federal Veterans' Administration, and the Kansas National Guard.

If the court determines the defendant is eligible for treatment under the above provisions and that the defendant meets the requirements for treatment under the alternative sentencing provisions of 2003 SB 123, the SB 123 provisions would apply, except the court may order treatment by the providers listed above in lieu of participation in a certified drug abuse treatment program.

## ECONOMIC DEVELOPMENT

### Economic Development Financing at Local Level; HB 2086

**HB 2086** revises provisions pertaining to economic development financing used by local units of government.

The bill allows costs for infrastructure improvements contiguous to a redevelopment district to be funded by the tax revenues generated from within the district, provided the infrastructure is necessary for the implementation of the redevelopment plan.

The bill also allows costs for infrastructure contiguous to a community improvement district (CID), including infrastructure costs related to a project within or substantially for the benefit of the CID, to be funded by the tax revenue generated from within the district.

Under previous law, in order to be eligible for funding, improvements had to be within the redevelopment district or CID.

Cities and counties under previous law were required to pledge all of their transient guest taxes and local sales and use taxes generated from within either type of district to make payments on special obligation bonds, if issued. The bill permits cities and counties to pledge a portion of the revenue to make payments on the bonds.

The bill also provides for a 26th property tax exemption for land owned by a municipality that is part of a public levee that is leased to a private party.

### Changes to Promoting Employment Across Kansas (PEAK) Program; Sub. for HB 2430

**Sub. for HB 2430** changes the Promoting Employment Across Kansas (PEAK) Program in several ways.

Under the bill, qualified companies may receive PEAK benefits for a benefit period of up to five years if the average wage paid to new employees is equal to the county median wage. The benefit period may extend up to six or seven years if the average wage paid to new employees is at least 110 percent or 120 percent, respectively, of the county median wage. Under previous law, qualified companies could receive benefits for periods ranging from five to seven years if the median wage paid to new employees was equal to or greater than the county median wage.

Qualified, high-impact companies, meaning companies that employ at least 100 new employees, are eligible for benefits for seven to ten years if the average wage paid to the new employees is equal to or greater than the county median wage. Under previous law, the eligibility of high-impact companies was based upon the median wage paid to new employees.

The bill permits the PEAK Program to be used for job retention for an additional 3.5 years, extending the sunset from December 31, 2014, to June 30, 2018. The aggregate amount of benefits received annually by qualified companies that retain jobs is capped at \$1.2 million during FY 2015 through FY 2018.

Qualified companies who had entered into the program prior to January 1, 2013, may request an extension for up to two years. The Secretary of Commerce has the discretion to grant the extensions as necessary for the companies to receive the benefits intended under the original PEAK agreements.

The bill applies caps on the aggregate amount of PEAK benefits received by qualified companies that expand or relocate operations in Kansas. In FY 2014, the cap is \$12 million. In FY 2015 the cap is \$18 million, \$24 million in FY 2016, \$30 million in FY 2017, \$36 million in FY 2018, and \$42 million in FY 2019 and subsequent fiscal years.

Incumbent legislators, as of the effective date of the bill, are prohibited from receiving benefits under the PEAK Program while in office and for a period of three years after leaving legislative office. Under previous law, legislators could not avail themselves of benefits until July 1, 2015.

## EDUCATION

### Student Data Privacy Act; SB 367

**SB 367** creates the Student Data Privacy Act (Act), which provides restrictions on what data contained in a student's educational record can be disclosed and to whom it may be disclosed. The bill requires that any student data submitted to and maintained by a statewide longitudinal student data system may be disclosed only to individuals or organizations as outlined in the bill.

Under the bill, educational agencies (school districts or the State Department of Education) must give annual written notice that student data may be disclosed as outlined in the Act. The notice must be signed and returned, and the district must keep it on file.

The bill permits student data to be disclosed at any time to the following:

- The student and the student's parent or legal guardian, but only if the data pertain solely to that student;
- Authorized personnel of an educational agency or the Kansas Board of Regents who require such disclosures to perform their assigned duties; and
- Any authorized personnel of any state agency with a data sharing agreement between the state agency and the educational institution.

Authorization is granted for disclosure of student data to any state agency not specified above or to a service provider of a state agency, educational agency or school who performs a specified educational service, provided there is a data-sharing agreement between the relevant educational agency and the state agency or service provider that provides for specific procedures, including data security and destruction or return of the data at the appropriate specified time. (Destruction of data must comply with National Institute of Standards and Technology requirements.) An exception to the data destruction requirement of student transcripts is provided for a service provider that performs an instructional function, if retention of the transcripts is required by applicable laws and rules and regulations.

The bill permits student data to be disclosed to any governmental entity not otherwise specified or to any public or private audit and evaluation or research organization, provided the data disclosed are aggregate and contain no personally identifiable student information. Personally identifiable information may be disclosed if an adult student or a minor student's parent or legal guardian consents in writing. The terms "aggregate data" and "personally identifiable data" are defined in the bill and are exclusive of each other.

In addition, an educational agency is allowed to disclose the following:

- Directory information when the agency deems disclosure is necessary and if consent is given in writing by a student's parent or legal guardian;
- Directory information to such entities as yearbook publishing companies and class ring vendors, including a student's name, address, telephone listing, and other specified information;
- Student data to a postsecondary institution that is required by the postsecondary institution for application or admission;

- Any student data required to comply with a subpoena or court order; and
- Any information required to be disclosed to public health officials for urgent health or safety reasons, in which cases confidentiality requirements apply.

The bill prohibits school districts from collecting biometric data or assessing a student's psychological or emotional state unless written consent is granted. The bill also requires the Department of Education to publish annually on its website a list of the categories of student data that are collected by any statewide longitudinal student data system.

The bill prohibits the administration of any test, questionnaire, survey, or examination containing questions regarding a student's or student's parents' or guardians' beliefs or practices on issues such as sex, family life, morality, or religion, unless permission is requested in writing and granted by a student's parent or guardian. The bill further states that this section does not prohibit school counselors from providing counseling services to a student but does restrict how information obtained through these services may be stored, specifically, by prohibiting the storing of such information on any personal mobile electronic device not owned by the school district.

In the event of a security breach or unauthorized disclosure of personally identifiable student data, the State Board of Education (State Board), local school district board, or any entity having access to the data must notify the subjects of the breach or disclosure and conduct an investigation into the causes and consequences.

The bill grants the Attorney General or any district attorney authority to enforce the first eight sections of the Act.

The bill further requires the State Board to submit a written report to the Governor and the Legislature by May 15, 2015, and each year thereafter, that includes:

- Categories of student data collected;
- Changes to existing data collection, including federal reporting requirements;
- Explanations of any exceptions made related to student data releases; and
- Scope and nature of any privacy or security audits.

Finally, the bill amends the law pertaining to protections for the right of privacy and federal law (KSA 72-6214) by doing the following:

- Requiring the Kansas Board of Regents, the State Board, the board of trustees of any public community college, the board of regents of any municipal university, the governing board of any technical college, and the board of education of any school district to adopt a policy in accordance with the Student Data Privacy Act, in addition to applicable federal laws and regulations to protect the right of privacy for students; and
- Deleting the statement that this section of law controls when there is a conflict between it and any other provision of law.

## **Kansas State High School Activities Association Board; Senate Sub. for HB 2197**

**Senate Sub. for HB 2197** amends law concerning the Kansas State High School Activities Association (KSHSAA).

The bill, while continuing to require at least 60 members to serve as directors on the KSHSAA, modifies the law regarding membership composition by doing the following:

- Ends four of the six State Board of Education (State Board) appointments upon expiration of the terms of those scheduled to expire after July 1, 2014, and replaces those directors with four successor directors appointed by the Governor. Any gubernatorial appointee must not be employed by any school affiliated with a KSHSAA league nor be a member of the State Board of Education; and
- Restructures the statutory requirement regarding representation of ethnic minority groups and both genders and adds a requirement regarding congressional district representation. Prior law required the State Board to attain, when necessary and insofar as possible, such representation by its appointment of not more than four additional directors from the public at large. The bill requires the Governor to attain such representation with gubernatorial appointees, when necessary and insofar as possible. In addition, the Governor's appointments must be made in a way that ensures that a resident from each congressional district is appointed.

The bill revises membership on the KSHSAA executive board by specifying the following:

- A director must serve at least one year as a member of the board of directors before being elected to the executive board; and
- At least two members of the executive board must be elected from among the four gubernatorial appointees to the board of directors, to the extent possible given the restriction that these members may be eligible to serve on the executive board only during the second, fourth, and sixth years of their terms.

## **Board of Regents Purchase of Insurance; HB 2470**

**HB 2470** removes a requirement that all regents universities purchase insurance of any kind or nature, except employee health insurance, on a competitive bid or competitively negotiated basis only from an insurance company authorized to do business in Kansas.

Education

**Higher Education—Appropriations, Sale of Property, Midwestern Higher Education Compact, and Performance-Based Funding; K-12 Education—Appropriations and School Finance, Adoption of Rose Capacities, Student Performance and Efficiency Commission, Alternative Teacher Licensure, Kansas Tort Claims Act, Public Innovative District Ceiling Increase, Virtual Schools and Programs, Uniform Financial Accounting and Reporting Act, Due Process Rights of Teachers, and Tax Credit for Low Income Students Scholarship Program Act; Senate Sub. for HB 2506**

**Higher Education—Appropriations, Sale of Property, Midwestern Higher Education Compact, and Performance-Based Funding; K-12 Education—Appropriations and School Finance, Adoption of *Rose Capacities*, Student Performance and Efficiency Commission, Alternative Teacher Licensure, Kansas Tort Claims Act, Public Innovative District Ceiling Increase, Virtual Schools and Programs, Uniform Financial Accounting and Reporting Act, Due Process Rights of Teachers, and Tax Credit for Low Income Students Scholarship Program Act; Senate Sub. for HB 2506**

**Senate Sub. for HB 2506** makes appropriations for both K-12 and higher education. The bill also makes a number of policy revisions, mostly for K-12 education, which are described below.

## **Higher Education**

### ***Appropriations***

The bill adds \$169,698, all from the State General Fund (SGF), for the Municipal University Operating Grant in FY 2014 and FY 2015. The bill adds \$17.4 million, all from the SGF, although there is shift of approximately \$18.0 million from special revenue funds to SGF for FY 2015. The bill restores funding of \$2.1 million SGF for the tiered technical formula to community and technical colleges; adds \$1.9 million SGF for the GED accelerator program; adds \$316,853 for the KAMS Summer Academy; and adds \$500,000 SGF for training and equipment for Wichita State University. The bill deletes funding for longevity in those universities that will have no classified employees after July 1, 2014, and the Governor's 1.5 percent salary pay increase for classified employees in the Board of Regents for FY 2015.

The bill also adds bonding authority to Fort Hays State University for the construction of a new Weist Hall; for Kansas State University chiller plant expansion; and for the University of Kansas (KU) Earth, Energy, Environment Center; and additional bonding authority, in the amount of \$25.0 million for FY 2015, to the KU Medical Center for the health education building.

### ***Sale of Property***

The bill authorizes the Kansas Board of Regents, on behalf of Emporia State University (ESU), to sell or exchange with the ESU Foundation certain real estate commonly known as Emporia State University Apartments. The bill allows for an exchange of the apartments with land the ESU Foundation is acquiring closer to the campus than the apartments' current location. The bill also authorizes KU and the KU Endowment Association to exchange two parcels of property. The parcels have been appraised, and the boundaries have been defined such that the two parcels are equal in value.

### ***Midwestern Higher Education Compact***

The bill repeals the expiration provision of the Midwestern Higher Education Compact Act.

### ***Performance-Based Funding***

The bill provides payments by the Board of Regents to postsecondary educational institutions that have provided any of the following to an individual enrolled in the institution: receipt of a GED credential while enrolled in an eligible career technical education (CTE) program; receipt of a CTE credential; or enrollment in an eligible CTE program.

### **K-12 Education**

#### ***Appropriations***

The bill appropriates an additional \$109.3 million for Supplemental General State Aid (local option budget equalization aid) and makes a revenue transfer of \$25.2 million to the Capital Outlay Fund from the SGF. Changes in the school finance formula, described below, result in a decrease in various weightings taking affect beginning in FY 2015 and thereafter, unless otherwise noted below.

#### ***Policy Statement***

The bill states the purpose and intention of the Legislature is to provide a K-12 funding system that provides students with the seven “Rose” capacities. [Note: These capacities, originally set out in *Rose v. Council for Better Education, Inc.*, 790 S.W.2d 186 (Ky. 1989), were held by the Kansas Supreme Court in *Gannon v. State of Kansas* to be the standards against which to evaluate the adequacy of the K-12 funding system.] The bill requires the funding system to be sufficiently flexible for the Legislature to consider and use financing methods from all available resources, such as the following:

- Federal funding to school districts or schools;
- State moneys appropriated for the improvement of public education. The bill includes a list of examples of such state funding sources;
- Any provision authorizing local tax levies for school funding purposes; or
- Any transfer of funds or appropriations from one object or fund to another approved for the purpose of funding public schools.

#### ***Phase-Out of the School Facilities Weighting***

The bill limits use of the school facilities weighting to only those districts that have adopted a local option budget (LOB) of at least 25 percent of the amount of state financial aid and for which the contractual bond obligations incurred by the district were approved by voters on or before July 1, 2014.

### ***Elimination of the Nonproficient Pupil Weighting***

The bill eliminates the weighting for pupils not eligible for the federal free lunch program but who scored below proficiency or failed to meet the standards established by the State Board on either the mathematics or reading state assessments in the preceding school year.

### ***Change in Definition of At-Risk Pupil***

The bill excludes from the definition of at-risk pupil any pupil enrolled less than full time in grades 1 through 12 or any student over 19 years of age. However, these provisions would not apply for any student who has an individualized education program (IEP).

### ***LOB Authority Expansion; Election Requirement***

With regard to the LOB, the bill:

- Amends the statutory Base State Aid Per Pupil (BSAPP) used in calculating the LOB from \$4,433 to \$4,490 for school years 2014-2015 and 2015-2016 (The current BSAPP of \$4,433 for LOB calculation purposes is extended until June 30, 2017.);
- Excludes virtual school state aid from the amount of state financial aid used in calculating the LOB;
- For school year 2014-2015, allows any school district that has adopted an LOB in excess of 30 percent on or before June 30, 2014, to adopt a second resolution in an amount not to exceed 2 percent. This resolution will expire on June 30, 2015, at which time a mail ballot election will be required to exceed an LOB of 30 percent; and
- Authorizes USD 207, Ft. Leavenworth, to adopt an LOB in excess of 30 percent with a resolution, subject to protest petition.

### ***K-12 Student Performance and Efficiency Commission***

The bill establishes the K-12 Student Performance and Efficiency Commission, charged with studying and making recommendations to the Legislature regarding opportunities to make more efficient use of taxpayer money and, in particular, study the following areas:

- Opportunities for school districts to be operated in a cost-effective manner;
- Variances in per-pupil and administrative expenditures among districts with comparable enrollment, demographics, and statewide assessment outcomes;

- Opportunities for implementing recommendations made by any efficiency task forces established by the Governor prior to July 1, 2014;
- Administrative functions that may be shared between school districts; and
- Expenditures not directly or sufficiently related to the goal of providing every child with the *Rose* capacities.

The bill sets forth the composition of the Commission, which will have nine voting and five nonvoting, *ex officio*, members. Procedural, staffing, reimbursement, and vacancy provisions also are included in the bill. The Commission's authority expires January 12, 2015.

The bill requires the Commission to submit a report to the Legislature before January 9, 2015, with any findings and recommendations including those for any legislation. The bill further requires that identical bills be introduced in the two chambers during the 2015 Legislative Session.

### ***Alternative Teacher Licensure***

The bill requires a specific group of prospective teachers be exempted from the requirement to complete a teacher preparation program prior to licensure if the licensure applicant satisfies one of the following conditions:

- The applicant holds a valid teaching license from another jurisdiction and has obtained the required scores on the test series required by the State Board of Education (State Board) for licensure;
- The applicant has obtained an industry-recognized technical profession certificate, has at least five years of work experience in that profession, and has secured a commitment to be hired to teach a related course from a local school district board; or
- The applicant has obtained at least a bachelor's degree in science, technology, engineering, mathematics, finance or accounting; has at least five years of work experience in the subject matter area; and has secured a commitment to be hired to teach a related course from a local school district board.

Such licensure applicant would be authorized to teach only in the subject or subjects specified on the face of the license. The bill authorizes the State Board to adopt rules and regulations necessary to carry out the provisions of this section.

### ***Notice Regarding Protections under the Kansas Tort Claims Act***

The bill requires each school district to provide to each employed teacher a written notice of protections afforded under the Kansas Tort Claims Act. The bill specifies the information that must be included in the notice.

### ***Codification of Rose Capacities***

The bill revises a statute pertaining to subjects and areas of instruction (KSA 2013 Supp. 72-1127) to eliminate a set of goals similar, but not identical, to the *Rose* capacities, and replace these goals with the exact language of the *Rose* capacities. The revised language states the Board must design subjects and areas of instruction to achieve the goal established by the Legislature of providing every child with at least the following capacities:

- Sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization;
- Sufficient knowledge of economic, social, and political systems to enable the student to make informed choices;
- Sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation;
- Sufficient self-knowledge and knowledge of his or her mental and physical wellness;
- Sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;
- Sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and
- Sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.

### ***Public Innovative District Ceiling Increase***

The bill increases the maximum percentage of Kansas school districts that may operate as Public Innovative Districts from 10 percent to 20 percent. The bill authorizes the additional 10 percent of school districts to operate as Public Innovative Districts, if the school district operates a school within its district that is deemed to be either a Title I Focus School or a Title I Priority

School pursuant to the Elementary and Secondary Education Act Flexibility Waiver for Kansas. Any such request for approval must be reviewed by the Coalition Board.

### ***Change in Statutory BSAPP and Formula Definitions***

The bill changes the statutory BSAPP from \$4,492 to an amount appropriated by the Legislature in a fiscal year for a designated school year. The amount must be at least \$3,838.

### ***Requirement to Study Virtual Schools and Programs***

The bill requires the Legislative Division of Post Audit to conduct a performance audit of virtual schools and programs as well as their funding.

### ***Renewal of Capital Outlay Authority***

The bill provides a school district with the authority to renew its capital outlay tax levy prior to the expiration of its existing capital outlay levy.

### ***Kansas Uniform Financial Accounting and Reporting Act Changes***

The bill amends the definition of “budget summary” to be a one-page summary. Additionally, the bill requires publications of the financial accounting information already required to be collected to be made available to the public at every board of education meeting at which the district’s budget or other school finance matters are discussed.

### ***Due Process Rights of Teachers—Changes in Definition of “Teacher”***

The bill amends the law concerning due process procedures for the termination of a teacher contract. In the act governing due process procedures, the bill strikes from the definition of “teacher” any professional employee who is required to hold a certificate to teach in any school district. Instead, the bill defines “teacher” as any teacher or instructor in any technical college, the Institute of Technology at Washburn University, or community college. “Teacher” does not include any persons employed in an administrative capacity by any technical college, community college, or the Institute of Technology at Washburn University.

However, for the purposes of the section in that act governing the renewal of a teacher’s contract absent written notice to terminate the contract, “teacher” includes any professional employee who is required to hold a certificate to teach in any school district. (This narrowing of the definition of “teacher” for the act as a whole makes the due process procedures inapplicable to such professional employees, as outlined above.)

The bill makes technical amendments to conform with that change and strikes provisions exempting certain teachers from due process procedures and concerning plans of assistance for teachers who have completed at least three years of employment. The bill also amends provisions of the law concerning the mentor teacher program to revise the definitions of

“probationary teacher” to mean a certificated teacher who has completed less than three consecutive school years of employment in the school district.

### ***Tax Credit for Low Income Students Scholarship Program Act***

The bill creates the Tax Credit for Low Income Students Scholarship Program Act (Act), to provide eligible students with scholarships to pay all or a portion of tuition to attend a qualified school in Kansas.

#### ***Scholarship Eligibility***

An “eligible student” is a child who qualifies as an at-risk pupil (eligible for free lunch under the National School Lunch Act) and:

- Attends a school that would qualify as either a Title I Focus School or a Title I Priority School; or
- Received an educational scholarship under this program and has not graduated from high school or reached 21 years of age.

Eligible students will be required to reside in Kansas while receiving a scholarship and be enrolled in a public school in the year prior to receiving the scholarship or be eligible to be enrolled in a public school, if under the age of six.

#### ***Tax Credits***

The scholarship will be financed via a tax credit against corporate income and premium (insurance companies) or privilege (financial institutions) tax liability beginning with tax year 2014 in an amount equal to 70 percent of the amount contributed for scholarships. The credit will be claimed and deducted from the taxpayer’s tax liability during the tax year in which the contribution was made. However, if the credit would exceed the donor’s tax liability for a particular year, the excess amount can be carried over in future years until the total credit was used. The total amounts of credits allowed in each tax year will not exceed \$10.0 million. The bill requires the Secretary of Revenue to adopt rules and regulations regarding filing of documents that support the amount of credit.

#### ***Scholarship Granting Organizations***

The bill creates scholarship granting organizations (SGOs) to administer the Act. The bill requires SGOs to provide verification to the Secretary of Revenue of the SGOs’ federal income tax exemption via section 501(c)(3) of the federal Internal Revenue Code. Further, the bill requires SGOs to disburse not less than 90 percent of the contributions received within a 36-month time period in educational scholarships not to exceed \$8,000 per eligible student. Allocation of the tax credits will be determined by the SGO in consultation with the Secretary of

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Revenue. The bill requires the State Board to adopt rules and regulations to implement provisions regarding Board certification that the scholarship granting organization is in substantial compliance with the program.

Applications for a scholarship will be made to the SGO, which must verify students meet the eligibility criteria of the Act and report which eligibility criteria the student met to the State Board of Education by June 1 of each year. Other information required to be reported to the State Board includes name and address of the SGO and of each scholarship recipient and the total number and amount of contributions and scholarships received and awarded during a 12-month period.

Each SGO is required to have its accounts examined and audited by a certified public accountant annually. An SGO having contributions in excess of \$50,000 during a school year must provide to the State Board a surety bond or financial information demonstrating an ability to pay an amount equal to contributions received. An SGO will be responsible for ensuring schools receiving scholarships comply with the Corporate Education Tax Credit Program requirements.

Finally, an SGO is prohibited from providing an eligible student with a scholarship funded by a student's relative or accepting a contribution directed toward a specific student.

#### *Qualified Schools*

The bill provides eligible students with an opportunity to attend qualified schools chosen by their parents. "Qualified school" is defined as any nonpublic school providing education to elementary and secondary students. The school must notify the State Board of its intention to participate in the scholarship program.

#### **Distance Education—State Authorization Reciprocity Agreement; HB 2544**

**HB 2544** authorizes certain postsecondary educational institutions to enter into the State Authorization Reciprocity Agreement to provide distance education to out-of-state students. If a postsecondary institution is a private or out-of-state institution and does not have a physical presence in Kansas, its participation in the agreement will exempt the institution from the Kansas Private and Out-of-State Postsecondary Educational Act. The bill authorizes the Board of Regents to adopt rules and regulations necessary to implement the law.

## ELECTIONS AND ETHICS

### **Campaign Finance; Eliminating Leadership Political Committees; SB 274**

**SB 274** abolishes any political committee established by a member of the Legislature and in existence prior to the effective date of this act. The bill forbids the creation of any such political committee by a candidate for the Legislature. Language retained in the statute forbids the creation of any such political committee by a member of the Legislature.

### **Petition Circulators and Ballot Language Statements; HB 2130**

**HB 2130** addresses elections issues regarding petition circulators and ballot language statements.

#### ***Petition Circulators***

The bill removes the requirement that a petition circulator be a resident of the State of Kansas and possess the qualifications of an elector.

It creates a definition of “petition circulator” to mean a person who is a U.S. citizen, is at least 18 years of age, and has not been convicted of a felony or, if convicted of a felony, has been pardoned or restored to that person’s civil rights. In addition, all petition circulators must submit to the jurisdiction of the state for purposes of subpoena enforcement regarding the integrity and reliability of the petition process.

#### ***Ballot Language Statements***

The bill creates new law concerning ballot language statements. The bill allows county election officials to request the preparation of a ballot language statement to explain the language of any municipal ballot question. If a request is submitted, the next steps depend somewhat on whether the ballot question language was derived from a petition.

- If such a request is made, and if the ballot question language was derived from a petition submitted to a county attorney, district attorney, or county counselor, the election officer is required, within ten days of certification of the petition, to request the applicable office prepare the ballot language statement. Within 15 days of a county election officer’s request for a ballot language statement, the office drafting the language is required to prepare and forward the language to the Secretary of State’s office for approval. After receiving the language, the Secretary of State has five days to provide approved language to county officials.
- If a request is made, and if the ballot question language did not derive from a petition submitted to a county attorney, district attorney, or county counselor, the county election officer is required, within ten days of publication of the local government resolution, to request the Secretary of State’s Office to prepare the statement. Within 15 days of a county election officer’s request for a ballot language statement, the Secretary of State’s Office must prepare and forward the language to the Attorney General for approval. After receiving the language, the

Attorney General has five days to provide the approved language to county officials.

Ballot language statements must fairly and accurately explain what a vote for and a vote against the question represents. Such statements must be true and impartial and cannot be intentionally argumentative or likely to create prejudice for or against a proposed measure. Statements are required to be prepared and transmitted in good faith and without malice.

Ballot language statements are required to be:

- Posted in each polling place, but cannot be placed on the ballot;
- Provided to registered voters voting by advance ballot, but cannot be placed on advance ballots; and
- Made available for public inspection at the county election office, but can be posted on the county website.

The bill expressly provides that there is no legal cause of action to challenge the validity of the form of a ballot language statement. The bill also provides that there is no liability for the Attorney General, assistant Attorney General, Secretary of State, Secretary of State's employees, county election officers, county attorneys, district attorneys, or county counselors who prepare ballot language statements.

Preparation of ballot language statements cannot form the basis for an election contest and does not result in the waiver of state immunity.

If a ballot language statement is not available to insert with advance ballots, it will not be prepared or otherwise made available.

The Secretary of State is authorized to promulgate rules and regulations addressing the rights and responsibilities of elections officials.

### **Deadlines for Changing Party Affiliation; HB 2210**

**HB 2210** prohibits a person from changing his or her party affiliation from the candidate filing deadline (June 1) through the date when primary election results are certified by the Secretary of State (on or before September 1). Prior to this bill, an individual could change party affiliation up to 14 days before the date of a primary election for national, state, county, or township offices.

The bill also deletes a statutory provision that prohibits a voter from receiving a ballot of any political party other than the party with which the voter is affiliated.

## EMPLOYERS AND EMPLOYEES

### **Workers Compensation—Allow Recovery for Specific Diseases Incurred by Certain Public Safety Personnel; Senate Sub. for HB 2023**

**Senate Sub. for HB 2023** provides an exemption, starting July 1, 2014, to the prohibition placed on the recovery of workers compensation in cases involving coronary disease, coronary artery disease, or cerebrovascular injury during the course of usual work performed by firefighters or law enforcement officers. In order to prove a claim, an injured public safety employee needs to show:

- The injury was caused by a specific event that occurred in the course and scope of employment;
- The coronary or cerebrovascular injury occurred within 24 hours of the specific event; and
- The specific event was the prevailing factor in causing the disease or injury.

### **Peer Review Procedure; Sub. for HB 2246**

**Sub. for HB 2246** creates new law establishing a peer review procedure for occupations and professions which are under the jurisdiction of the Board of Technical Professions (Board).

The purposes of the peer review may include:

- Evaluating and improving the design, drawings specifications or quality of services rendered by a design professional, which is defined to include the practices of architecture, landscape architecture, land surveying, geology, or engineering;
- Evaluating the design, construction, procedures and results of improvements to real property based upon services rendered by a design professional during or after completion of such improvements; or
- Preparing an internal lessons learned review of any project or services rendered for the purpose of improving the quality of services rendered by a design professional.

A peer review committee or peer reviewer may communicate activities, information, and findings to other peer review committees or peer reviewers or to the design professional who uses the peer reviewer or peer review committee and to any officer, director, or quality control director without a waiver of privilege. Additionally, each peer reviewer and member of a peer review committee is immune from civil liability. However, this immunity covers only peer reviews by a third-party design professional who is not an employee, coworker, or partner of the design professional and has no other role in the project.

A peer reviewer or peer review committee is defined as an individual design professional or a committee of design professionals retained, employed, designated or appointed by the following:

- A state, county, or local society of design professionals; or
- The board of directors, chief executive officer, quality control director, or employed design professional of a business entity which is considered a technical profession.

Additionally, any reports, statements, memoranda, proceedings, filings, and other records which are submitted or generated by any peer review committee or peer reviewer is privileged from discovery or subpoena. However, the design professional who uses a peer reviewer or peer review committee is the holder of the privilege.

The privilege exception does not apply to proceedings by the Board in which a design professional contests the revocation, denial, restriction or termination of the license, registration, certification or other authorization to practice of the design profession. The bill also requires any disciplinary proceeding conducted by the Board in which admission of any peer review report, record, or testimony be held in closed session.

### **State Employees Retirement Calculation Hold-Harmless; HB 2596**

**HB 2596** revives a provision concerning state employee retirement and disability benefits that previously expired on June 30, 2007, and permanently reinstates the provision.

The provision holds harmless both the retirement and disability benefits calculations for any state employee member of the Kansas Public Employees Retirement System (KPERs), the Kansas Police and Firemen's (KP&F) Retirement System, or the Retirement System for Judges, if the employee is furloughed or accepted a voluntary reduction in pay during the period of time used for determining benefits.

## ENERGY AND UTILITIES

### Next Generation 911; SB 284

**SB 284** makes several changes to the Kansas 911 Act. Specifically, the bill:

- Adds definitions of “911 call” and “911 system operator”;
- Adds language that alters the composition of the 911 Coordinating Council by adding a voting membership for the Kansas Association of Chiefs of Police and the Kansas Sheriffs Association (rather than a single voting member representing Kansas law enforcement officers);
- Removes the nonvoting member recommended by KAN-ED from the 911 Coordinating Council;
- Adds language to increase the budget authority of the 911 Coordinating Council from 1.5 percent to 2.5 percent of the total 911 fee receipts; and
- Adds language to allow the 911 Coordinating Council to extend the contract of the Local Collection Point Administrator (LCPA) for up to two years without the advice and consent of the Legislative Coordinating Council. (Under prior law, the 911 Coordinating Council could extend the contract of the LCPA for up to three years with the advice and consent of the Legislative Coordinating Council.)

### Kansas No-Call Act; SB 308

**SB 308** allows the Office of the Attorney General to enforce the Kansas law against telemarketers who call a consumer’s listed cellphone number in violation of the law. In addition, the bill contains other provisions that bring Kansas law into compliance with federal law and provide uniformity between the state and federal Do Not Call laws.

### Net Metering and Parallel Generation; Senate Sub. for HB 2101

**Senate Sub. for HB 2101** amends the Net Metering and Easy Connection Act and law regarding parallel generation.

For customer-generators that installed net metering systems **prior** to July 1, 2014, the bill allows them to continue operating their systems according to current standards, with the following exceptions:

- The bill places a sunset of January 1, 2030, on provisions allowing customer-generators to carry forward from month-to-month the net excess energy (NEG) produced in excess of the customer-generator’s consumption. Prior to January 1, 2030, NEG credits expire on March 31 of each year. After January 1, 2030, any NEG credits remaining in the customer’s account at the end of each billing period will expire;

- Credits for NEG are transferable and continue in place until January 1, 2030, regardless of a change in possession or ownership of the property on which the renewable energy resource is located; and
- Any NEG resulting from renewable energy resources that are installed on or after July 1, 2014, but are part of a renewable energy resource that was operating prior to July 1, 2014, will be carried forward and credited to the customer as if they had begun operation prior to July 1, 2014.

For customer-generators that install net metering systems **after** July 1, 2014, the bill will:

- Require all NEG credits remaining in the customer's account at the end of each billing period be credited to the customer at a rate of 100 percent of the utility's monthly system average cost of energy per kilowatt hour;
- Authorize the utility to bill the customer-generator for the net electricity supplied by the utility, if the electricity supplied by the utility exceeds the electricity generated by the customer-generator during a billing period;
- Place a limit on net metering for residential customer-generators of 15 kilowatts. For commercial, industrial, religious institution, agricultural, industrial, and local, state, and federal government customer-generators, the limit would be 100 kilowatts, unless otherwise agreed to by the utility and the customer-generator. For schools, the limit would be 150 kilowatts;
- Remove the requirement that a utility must offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator and cannot charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and
- Provide an option for the utility to propose, within an appropriate rate proceeding, the application of time-of-use rates, minimum bills, or other rate structures that would apply to all such customer-generators prospectively.

For all customer-generators, on or after January 1, 2030, the bill will:

- Authorize the utility to bill the customer-generator for the net electricity supplied by the utility, if the electricity supplied by the utility exceeds the electricity generated by the customer-generator during a billing period; and
- Require all NEG credits remaining in the customer's account at the end of each billing period be credited to the customer at a rate of 100.0 percent of the utility's monthly system average cost of energy per kilowatt hour.

The bill also amends continuing law to say each kilowatt of nameplate capacity of net metered facilities and parallel generation of electricity counts as 1.10 kilowatts toward the compliance of the affected utility with the Renewable Energy Standards Act.

### **Energy Efficiency Investment Act; Senate Sub. for HB 2482**

**Senate Sub. for HB 2482** establishes the Energy Efficiency Investment Act (Act). The Act requires the Kansas Corporation Commission (KCC) to permit electric and natural gas public utilities to implement Commission-approved programs and cost recovery mechanisms to reduce the consumption of electricity or natural gas by retail customers.

The Act also requires the KCC, in determining whether to approve a program, to consider the cost effectiveness of any such program, except that programs targeted to low-income customers are not required to meet a cost effectiveness test if the KCC determines they are in the public interest and supported by a reasonable budget.

The Act requires the KCC to allow the utility to recover its costs in delivering the programs as long as the program results in energy savings and is beneficial to customers in the targeted class; however, programs determined to be non-cost effective, other than programs targeted to low-income customers or general education campaigns, shall be modified to address deficiencies or be terminated. The Act also permits the KCC to allow additional cost recovery mechanisms that further encourage investment in programs designed to reduce the consumption of electricity or natural gas by retail customers.

The bill requires each public utility to submit an annual report to the KCC describing the results of its energy efficiency programs by May 31 of each year.

The bill identifies specific actions the KCC must perform that address the needs of the public and the utilities to achieve the goals of the Act.

The bill permits the KCC to promulgate rules and regulations for the administration of the Act.

### **Kansas Corporation Commission; HB 2487**

**HB 2487** makes several changes to law regarding issuance of certificates of public convenience by the Kansas Corporation Commission (KCC). The bill:

- Clarifies that entities seeking to construct electric transmission lines in Kansas must obtain a certificate of public convenience and necessity prior to transacting business;
- Extends the time frame for the KCC to issue a decision on a common carrier or public utility's application for mergers and acquisitions from 180 days to 300 days, with provisions for a mutually agreed upon waiver or extension of the time period;
- Directs the KCC to expeditiously process every common carrier or public utility's application for a certificate of public convenience and necessity; and

- Modifies the term “certificate of public convenience” in KSA 66-131 to read “certificate of public convenience and necessity.”

In addition, the bill gives the KCC explicit authority, on its own or in association with others, to intervene or otherwise participate in state or federal proceedings on any matter the KCC reasonably believes pertains to its official duties. In addition, the KCC has discretion to file *amicus* briefs with any court in Kansas or the federal government, after conferring with the Attorney General.

### **Kansas Electric Transmission Authority; HB 2488**

**HB 2488** amends the purpose, membership, and authority of the Kansas Electric Transmission Authority (KETA).

The bill extends the purpose of KETA to include further ensuring planning of the transmission system, facilitating the delivery and utilization of energy in Kansas, and addressing related policy initiatives. The membership of KETA is increased from seven members to nine members. The members appointed by the Governor are increased from three members to five members, of whom not more than three members are allowed to be from the same political party.

The bill also gives KETA the express authority to create an electric transmission advisory council. The council members will serve at the pleasure of KETA and will be reviewed annually.

In addition, the bill repeals law authorizing KETA to incur or assume indebtedness and enter into contracts with the Kansas Development Finance Authority to issue bonds and provide financing for a KETA transmission project.

### **Air Quality Standards; HB 2636**

**HB 2636** allows the Secretary of Health and Environment to establish separate performance standards for carbon dioxide emissions for coal-fired and natural gas electric generating units that have been constructed or received a prevention of significant deterioration permit by July 1, 2014. The bill allows the Secretary to use flexible regulatory mechanisms, including the averaging of emissions, emissions trading, or other alternative implementation measures, and to enter into voluntary agreements with utilities that operate fossil-fuel-based electric generating units within Kansas to implement the standards.

The standards are based upon the following:

- The best system of emission reduction that has been adequately demonstrated while considering the cost of achieving such reduction;
- Reductions in emissions of carbon dioxide that can reasonably be achieved through measures taken at each electric generation unit; and

- Efficiency and other measures that can be undertaken at each electric generating unit to reduce carbon dioxide emissions without any requirements for fuel switching, co-firing with other fuels, or limiting the utilization of the unit.

The Secretary may consider alternative standards and metrics or provide alternative compliance schedules than those provided by federal rules or regulations by evaluating the following:

- Unreasonable costs of achieving an emission limitation due to plant age, location or design of an electric generating unit;
- Any unusual physical or compliance schedule difficulties or impossibility of implementing emission reduction measures;
- The cost of applying the performance standard to an electric generating unit;
- The remaining useful life of an electric generating unit;
- Any economic or electric transmission and distribution impacts resulting from closing the electric generating unit if compliance with the performance standard is not possible; and
- The potential for a standard of performance relating to unit efficiency.

### **Keystone XL Pipeline; HCR 5014**

**HCR 5014** urges the President of the United States to support the continued and increased importation of oil derived from Canadian oil sands and urges the U.S. Secretary of State to approve the Keystone XL Pipeline application from TransCanada.

The concurrent resolution makes the following findings regarding the TransCanada Keystone XL Pipeline:

- The U.S. is the world's largest petroleum consumer and imports approximately 50 percent of its petroleum;
- The U.S. will remain dependent on imported energy for decades to come and needs a secure supply of crude oil free from potential threats and disruptions of an unreliable crude oil supply from less secure parts of the world;
- Once completed, TransCanada's Keystone XL Pipeline and Gulf Coast Expansion projects could displace roughly 40 percent of oil imported from the Persian Gulf and Venezuela;
- The Keystone XL Pipeline project poses a minimal impact to the environment and is much safer than other modes of transporting crude oil; and

- The Keystone XL Pipeline combined with the Gulf Coast Project will create approximately 9,000 and 4,000 construction jobs, respectively, as well as 7,000 manufacturing jobs.

## FINANCIAL INSTITUTIONS AND INSURANCE

### Security Deposit Requirements—Exclusions for Real Estate, Mortgages; SB 267

**SB 267** amends a provision in the Insurance Code pertaining to security deposits to exclude real estate and mortgages from assets required to be deposited with the Insurance Commissioner and require the submission of an authorized signature form prior to the acceptance of any deposit.

Under the prior law, all cash, securities, real estate deeds and mortgages, or other assets deposited with the Commissioner were required to be deposited with a financial institution acceptable to the Commissioner. With enactment of the bill, real estate and mortgages are excluded from this requirement.

The bill also requires an authorized signature form to be submitted to the Commissioner prior to acceptance of any deposit. The signature on this form is required to be the original handwritten name of each signee and cannot be a copy, facsimile, electronic or digital signature.

### Risk-Based Capital Instructions; SB 268

**SB 268** amends the effective date specified for the risk-based capital (RBC) instructions promulgated by the National Association of Insurance Commissioners for property and casualty insurance companies, as well as for life insurance companies. The bill updates the effective date on the RBC instructions from December 31, 2012, to December 31, 2013.

### Vision Care Services Act; SB 285

**SB 285** creates the Vision Care Services Act, an act to prohibit certain limitations in contracts between insurers and vision care providers.

More specifically, the bill applies to contracts between an insurer, health insurer, or another entity writing vision care insurance or a vision care discount plan and a vision care provider. Contracts issued or renewed on or after the effective date of the Act could not contain any provision that would require a vision care provider to:

- Provide services or materials to an insured under vision care insurance or a health benefit plan or to a subscriber of a vision care discount plan at a fee limited or set by the plan unless the services or materials are reimbursed as covered services under the contract; or
- Participate in a vision care insurance or vision care discount plan as a condition to participate in any other health benefit plan or vision care plan, regardless of whether such plan is a plan of insurance or a vision care discount program which is not an insurance plan.

The bill further provides that no vision care provider could charge more for services or materials that are not covered services under either vision care insurance or a vision care discount plan than such provider's usual and customary rate for those services and materials. Any entity offering vision care insurance policies and discount plan contracts is prohibited from

changing the terms, discounts, or rates without the agreement at the time of the change by the vision care provider. Additionally, no vision care insurance policy or vision care discount plan that provides covered services for materials will be allowed to limit the choice of sources and suppliers of materials by a patient of a vision care provider.

### ***Discount Card***

The provisions created by the bill do not prohibit the use of a discount card by a patient or client of a vision provider if enrollment by the vision care provider is completely voluntary and not conditioned upon the provider's participation in any other discount card with different provider terms and conditions or insurance program. The bill also does not prohibit use of such a card if the discount card program does not make or include coverage or payment to the provider.

### ***Definitions***

Among the definitions established by the Act, the term "discount card" is assigned its meaning from the Kansas Discount Card Act: a card or other purchase mechanism which is not insurance and purports to offer discounts or access to discounts in health-related purchases from health care providers. "Vision care insurance" means an integrated health benefit plan or vision care insurance policy or contract which provides vision benefits pertaining to the provision of covered services or materials. "Vision care discount plan" means any entity governed by the Kansas Discount Card Act that has been specifically authorized by the vision care providers to provide discounts to patients.

### **Investments of Insurance Companies; SB 306**

**SB 306** updates statutes applying to investments of insurance companies to allow certain types of equity investments. The bill further specifies that insurance companies are prohibited from investing more than 5.0 percent of the outstanding equity interests of any one business entity and from investing an amount of more than 2.0 percent of the investing company's assets in any one business.

### ***Definitions***

In its updates to the investment statutes, the bill replaces the term "corporation" with "business entity" and provides that a "business entity" includes a sole proprietorship, corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund, trust, joint tenancy, or other similar form of business organization, whether organized for profit or not for profit.

The bill also replaces the term "common stock" with "equity interest" which includes, among other things, common stock; trust certificates; ownership interest in minerals, oil or gas; or the rights, limited partnership interest, and member interests in limited liability companies.

### ***Investment Provisions***

Investments have been subject to a requirement that includes being listed on an exchange and a limitation on the amount of these investments of the lesser of 15.0 percent of the company's admitted assets or its combined capital and surplus. The bill instead allows up to 7.5 percent of the overall 15.0 percent of admitted assets to be invested in equity interests without being subject to other requirements.

The bill expands the permissible investments that could be used as collateral in securing a loan. Specifically, the bill replaces the term "securities" with "asset" in a provision that includes an 80.0 percent loan-to-value requirement. (KSA 40-2a14, KSA 40-2b12)

The bill deletes a limitation on the investment of insurance companies in asset-backed securities that had restricted an investing company's aggregate investment to 20.0 percent of the admitted assets of the company. Under the continuing law, asset-backed securities must, at the time of acquisition, be designated as a "1" or "2" by the National Association of Insurance Commissioners, and the investment in any one issue cannot exceed 2.0 percent of the admitted assets of the investing insurance company. (KSA 40-2a28; KSA 40-2b29)

The bill also removes the application of the leeway clause (KSA 40-2a16; KSA 40-2b13) to investments in certain instruments. An insurance company has been prohibited from putting certain assets (*i.e.*, lower grade debt instruments) in leeway.

The bill also makes technical amendments to update the use of terms and references to investment laws.

### **MEWA Exemption—Qualified Associations and Other Business Entities; SB 309**

**SB 309** amends a provision in the Insurance Code to add any other qualified trade, merchant, retail or professional association or business league, and farmers' cooperatives to the list of associations providing health insurance coverage exempted from the jurisdiction of the Kansas Insurance Commissioner.

The bill defined a "qualified trade, merchant, retail or professional association or business league" as any *bona fide* trade, merchant, retail or professional association or business league that has been in existence for at least five calendar years and is composed of five or more employers.

The bill further specifies the exemption for farmers' cooperatives applies to an entity that is organized as a farmers' cooperative under the Kansas Cooperative Marketing Act and is an association of farmers' cooperatives and other like associations operated on a cooperative basis and their affiliated companies that provide benefits.

Associations and other qualifying entities will be required to comply with related written notification requirements to specify, among other things, the coverage is not provided by an insurance company and the plan is not under the jurisdiction of the Insurance Commissioner.

The 1991 Legislature exempted five multiple employer welfare arrangement (MEWA) association groups from the jurisdiction of the Insurance Commissioner. Those five associations exempted in KSA 2013 Supp. 40-2222 are a professional association of architects (American

Institute of Architects—Kansas), a professional association of dentists (Kansas Dental Association), a trade association of banks (Community Bankers Association of Kansas), a trade association of truckers (National Association of Independent Truckers), and an association of physicians practicing in the Kansas City metropolitan area that provides certain health benefits to the members of the association. The 2013 Legislature authorized exemption for an additional association, a trade association of banks (the Kansas Bankers Association).

### **Return of Premiums Separate from the Notice of Denial of Coverage; SB 321**

**SB 321** amends a provision in the Kansas Automobile Injury Reparations Act pertaining to providing proof of auto insurance to clarify when unused premium payments can be returned in the event of a notice of denial of coverage. The bill specifies the refund can be made to an applicant or agent either accompanying the notice of the denial of coverage or by separately returning the refund in not more than ten days from the date of the notice.

### **Federal Home Loan Bank Exemptions in Insurance Company Insolvency Proceedings; HB 2514**

**HB 2514** amends the Insurers Supervision, Rehabilitation and Liquidation Act to clarify the priority rights of Federal Home Loan (FHL) Banks as secured creditors in insurance company insolvency proceedings. Specifically, the bill:

- Prohibits an FHL Bank from being stayed, enjoined, or prohibited from exercising or enforcing any right or cause of action regarding collateral pledged under any FHL Bank security agreement or any pledge, security, collateral, or guarantee agreement, or other similar arrangement or credit enhancement relating to such security agreement;
- Prohibits a liquidator from disavowing, rejecting, or repudiating any FHL Bank security agreement;
- Clarifies a receiver cannot avoid any transfer arising under or in connection with any FHL Bank security agreement, unless the transfer was made with the intent to hinder, delay, or defraud existing or future creditors; and
- Prohibits a liquidator or receiver from avoiding any preference arising under or in connection with any FHL Bank security agreement.

### **Health Care Provider Liability Insurance and Amendments to the Health Care Provider Insurance Availability Act; HB 2516**

**HB 2516** amends provisions relating to the operation of mutual insurance companies organized to provide health care provider liability insurance and also amends the Health Care Provider Insurance Availability Act (Act), which governs the operation of the Health Care Stabilization Fund (HCSF). Further, the bill makes continued HCSF coverage for inactive health care providers (commonly referred to as “tail coverage”) immediate upon cancellation or inactivation of a Kansas license and professional liability insurance and increases the level of tail coverage available; makes tail coverage available for new professionals and facilities for

prior acts; limits disclosure of HCSF claims information to the public; and makes technical amendments.

Specific changes are described below.

### ***Health Care Provider Liability Insurance Companies***

The bill makes the following changes affecting mutual insurance companies organized to provide health care provider liability insurance:

- Requires approval from the sponsoring organization of the mutual insurance company before the company can undergo a change of control, sale, or merger; and
- Expands the types of insurance products that can be sold to include all insurance policies statutorily authorized for sale by mutual insurance companies other than life insurance.

### ***Health Care Provider Insurance Availability Act***

#### ***Definitions***

The following changes and additions are made to definitions in the Act:

- “Health care provider” is amended to:
  - Include, as of January 1, 2015, physician assistants, nursing facilities, assisted living facilities, residential health care facilities, and certain advance practice registered nurses (certified in the role of nurse midwife);
  - Clarify what “health care provider” does not include; and
  - Add providers to the list of those excluded from the definition due to an inactive license or a federally active license that offers protection under the Federal Tort Claims Act;
- Definitions for “Board” and “Board of Directors” are added to distinguish between two distinct boards, and the appropriate new term replaces existing references to boards; and
- “*Locum tenens* contract” and “professional services” are defined.

Throughout the bill, references to named state agencies are replaced with references to the state of Kansas. References to the Director of Accounts and Reports, a position no longer in existence due to agency reorganization, are replaced with references to the Secretary of Administration or the State of Kansas.

### *Disclosure of Information*

The bill amends prior HCSF payment requirements to specify that payments from the HCSF for attorney fees, expert witness fees, and other claims costs are not subject to the public inspection requirements held in the Kansas Open Records Act (KSA 45-218). Further, the bill provides that this confidentiality provision expires on July 1, 2019, unless the Legislature reviews and reenacts it.

### *Liability Insurance Coverage*

The bill clarifies that professional liability insurance and HCSF coverage are a condition of licensure to practice in the state for health care providers, as defined in the bill. Further, the bill clarifies that HCSF liability is based on the level of HCSF coverage selected by a health care provider, and the HCSF is not liable for any claim not normally covered by a medical professional liability insurance policy.

Inactive health care providers are ensured of having HCSF tail coverage equal to the amount of their primary insurance coverage plus the amount of HCSF coverage selected and in effect at the time the event resulting in a claim of medical negligence occurred. Further, beginning July 1, 2014, the five-year compliance period requirement prior to being eligible for tail coverage is removed, and any health care provider has tail coverage immediately upon canceling or inactivating a Kansas license and the provider's professional liability insurance policy. Any language unnecessary due to the improved tail coverage provisions is removed.

The bill clarifies that any non-resident health care provider who maintains an active Kansas license is required to maintain continuous professional liability coverage. Clarification is made as to when a non-resident health care provider is required to pay the premium surcharge. An exemption is made for non-resident health care providers who provide services under a temporary agreement in the state to require occurrence coverage rather than claims made coverage.

The bill provides that health care provider surcharge refunds are not to be issued until notice of cancellation requirements are met.

The Board of Governors of the HCSF is authorized to grant temporary exemptions from the professional liability insurance and HCSF coverage under exceptional circumstances.

### *New Health Care Providers—Tail Coverage, Transition Period*

The bill also requires the Health Care Provider Insurance Availability Plan (Availability Plan) to make available professional liability insurance coverage for prior acts. Such policies are required to have limits of coverage not to exceed \$1.0 million per claim (\$3.0 million annual aggregate liability for all claims) made as a result of personal injury or death arising out of the rendering of or the failure to render professional services within the state on or before December 31, 2014. The tail coverage is available only to the new professionals and facilities made part of the definition of "health care provider" who are in compliance with the coverage requirements specified in KSA 40-3402 on January 1, 2015. The premiums for this coverage are to be based upon reasonably prudent actuarial principles. The tail coverage provisions for new health care providers expire on January 1, 2016. (The Availability Plan is a joint underwriting

association created under the Act to provide commercial insurance coverage for health care providers unable to purchase coverage.)

### *Insurer Responsibilities*

The time allowed for insurers providing basic professional liability insurance coverage to notify the Board of Governors of such coverage for the purpose of hospital credentialing is shortened.

Insurers failing to report any written or oral claim or action for damages for medical malpractice to the appropriate state health care provider regulatory agency and the Board of Governors no longer face suspension, revocation, denial of renewal, or cancellation of the insurer's certificate of authority to do business in the state or certificate of self-insurance. Instead, if a civil fine is assessed by the Board of Governors for such violation, the reason for and the amount of the civil fine are reported to the Insurance Commissioner.

### *Board of Directors*

Membership to the Board of Directors of each plan is reapportioned to replace one of three members who are representatives of foreign (out-of-state) insurers with the chairperson of the Board of Governors or the chairperson's designee and to replace one of two members of the general public with an additional health care provider.

### *Board of Governors*

The bill increases membership to the Board of Governors (by new definition known as the "Board") of the HCSF from 10 to 11 members by adding a representative of adult care facilities. All employees of the HCSF who are employed by the Board are made unclassified employees.

## **Money Transmitter Licensing; HB 2525**

**HB 2525** enacts new law regulating changes in the executive officers or directors of licensed money transmitters, and amends the Kansas Money Transmitter Act to regulate changes in control of money transmitter licenses; prohibits transferring, assigning, or allowing an unlicensed person to use the licensee's license; increases the accounts receivable allowed as permissible investments; and updates relevant disclosure provisions.

## **Insurance—Disclosure Statements; Confidential Treatment of Information; COBRA Continuation of Coverage; State Fair Board and Certain Coverages; HB 2537**

**HB 2537** amends provisions in the Insurance Code relating to certain disclosure statements and the confidential treatment of information disclosed in certain examinations; creates new law to require municipalities to pay premiums for continuation under Consolidated Omnibus Budget Reconciliation Act health benefit provisions (COBRA) to a surviving spouse and eligible dependent children in the event of a line of duty death of any emergency personnel; amends existing law to require state agencies and municipalities to pay premiums for

continuation of coverage under COBRA to a surviving spouse and eligible dependent children in the event of a line of duty death of law enforcement officer who is employed by the Kansas Department of Corrections; and authorizes the State Fair Board to purchase event cancellation and rain insurance coverage.

### ***Disclosure Statements***

Specifically, the bill removes the ten-point boldface type printing requirement for the disclosure statement required to be included in any contract of insurance or indemnity or explanatory materials written in a language other than English, which are provided by insurance companies in the state.

### ***Extension of Confidential Treatment; Access to Examination Information***

The bill also extends the confidential treatment to information obtained or disclosed to the Insurance Commissioner in the course of an examination made under the Kansas Insurance Code that is not subject to subpoena and may not be made public, except to the extent specifically provided in the Kansas Open Records Act, to include the analysis by the Commissioner pertaining to either the financial condition or the market regulation of a company. The bill also extends access to information obtained or disclosed in the course of an examination beyond the National Association of Insurance Commissioners to include its affiliates.

### ***Continuation of COBRA Coverage***

#### ***Emergency Personnel***

The bill enacts new law to require municipalities to pay premiums for continuation of coverage under COBRA for the surviving spouse and eligible dependent children under the age of 26 of any emergency personnel who dies in the line of duty.

The payment of premiums for COBRA continuation coverage is to be paid for 18 months and only if the deceased emergency personnel was enrolled in a health benefit plan for which a municipality was paying premiums. A municipality is not required to pay the premiums for a surviving spouse when any of the following conditions are present:

- On or after the end of the 18th calendar month after the date of the deceased emergency personnel's death;
- Upon the remarriage of the deceased emergency personnel's surviving spouse;  
or
- Upon the deceased emergency personnel's surviving spouse reaching the age of 65.

Under the bill, "emergency personnel" is assigned the definition of "attendant" as specified in KSA 2013 Supp. 65-6112 (emergency medical services):

- A first responder, an emergency medical responder, emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator, emergency medical technician-intermediate/defibrillator, advanced emergency medical technician, mobile intensive care technician or paramedic certified pursuant to this act.

*Law Enforcement Officer—Kansas Department of Corrections Employees*

The bill amends the law requiring state agencies or municipalities to pay premiums for continuation of coverage under COBRA for the surviving spouse and eligible dependent children under the age of 26 of certain law enforcement officers who die in the line of duty. The bill amends the definition of “law enforcement officer” to include employees who are employed by the Kansas Department of Corrections. Under the existing law that provides for the continuation of coverage under COBRA, a “law enforcement officer” is an employee employed by a law enforcement agency whose principal duties are engagement in the enforcement of law and maintenance of order within this state and its political subdivisions, and who is certified pursuant to the provisions of the Kansas Law Enforcement Training Act.

***State Fair Board—Event Cancellation and Rain Insurance Coverage***

Finally, the bill authorizes the State Fair Board to purchase event cancellation and rain insurance coverage in amounts deemed appropriate by the Board for the period of the annual State Fair and during the remainder of the year. Insurance purchased pursuant to provisions of the bill is required to be acquired through the Committee on Surety Bonds and Insurance and its procedures for insurance contracts and coverage.

**Predetermination of Health Care Benefits Act; HB 2668**

**HB 2668** makes certain findings on behalf of the Legislature and enacts the Predetermination of Health Care Benefits Act.

Among the findings, the bill states the people of Kansas all benefit if health plans were required to provide real-time Explanation of Benefits (EOBs) on request when a physician submits an electronic claim predetermination request. The bill also states the Legislature finds and declares:

- Health plans have the ability today to provide a real-time EOB, enabling patients and their physicians to learn how a claim for services will be adjudicated at the point of care;
- Real-time EOBs have the potential to significantly reduce health care costs by making the true cost of health care services transparent to patients and their physicians at the time treatment decisions are being made and by reducing the costs of collections; and
- Real-time EOBs also have the potential to eliminate the financial uncertainty that currently plagues the health care system and would remove another layer of

complexity and anxiety for patients at a time when they should be focused on their health.

### ***Predetermination of Health Care Benefits Act***

The bill creates the Predetermination of Health Care Benefits Act and establishes a request and information transaction process termed as the “health care predetermination request and response.” Health plans that receive an electronic health predetermination request will be required to provide to the requesting health care provider the amounts of expected benefits coverage on the procedures specified in the request that is accurate at the time of the health plan’s response. Any such request provided in good faith would be deemed to be an estimate only and would not be binding upon the health plan with regard to the final amount of benefits actually provided by the plan.

### ***Health Care Services; Information to be Provided***

The bill specifies the following information to be provided in the response by the health plan:

- The amount the patient will be expected to pay, clearly identifying any deductible amount, coinsurance, and copayment;
- The amount the health care provider and institution will be paid; and
- Whether any payments will be reduced or increased from the agreed fee schedule amounts and, if so, the health care policy that identifies why the payments will be reduced or increased.

### ***Health Care Predetermination Request and Response***

The bill requires this electronic request and response transaction to be conducted in accordance with the transactions and code sets standards promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the related 45 Code of Federal Regulations, parts 160 and 162 or later versions. The bill specifies two transaction sets – the ASC X12 837 health care predetermination: professional transaction and the ASC X12 837 health predetermination: institutional. The bill also requires compliance with any operating rules that may be adopted with respect to this transaction or any of its successors, without regard to whether those operating rules are mandated by HIPAA. The response of the health plan to the predetermination request must be returned using the same form of transmission as that of the submission.

### ***Definitions; Payments and Predetermination Requests; Rules and Regulations***

The bill creates definitions for the following terms:

- Health plan – the same meaning as defined in KSA 40-4602 (any hospital or medical expense policy, health, hospital or medical service corporation contract, a plan provided by a municipal group-funded pool, a policy or agreement entered

into by a health insurer or a health maintenance organization contract offered by an employer or any certificate issued under any such policies, contracts or plans);

- Health care provider – the same meaning as defined in KSA 40-4602 (physician, hospital or other person which is licensed, accredited or certified to perform specified health care services). The term also includes:
  - Advanced practice registered nurses; and
  - Physician assistants; and
- Payment – the term means only a deductible or coinsurance payment and does not include a copayment.

The bill states the Act will preclude the collection of any payment prior to or as a condition of receiving the health benefit services subject to a predetermination request, unless this practice is not prohibited by the provider agreement with the health plan.

The bill requires the Insurance Commissioner to adopt rules and regulations necessary to carry out the provisions in the bill.

#### *Effective Date*

The bill will be effective and be in force from and after July 1, 2017, and publication in the statute book.

#### **Distribution of Unclaimed Property; HB 2687**

**HB 2687** amends the Distribution of Unclaimed Property Act to allow a business to request an administrative hearing if there is a dispute in the results of an audit of records regarding disclosure of unclaimed property. The hearings will be conducted by the Office of Administrative Hearings. The bill also removes the penalty of a class B misdemeanor for willfully refusing to pay or deliver property to the State Treasurer after a written demand by the Treasurer.

#### **Insurance Coverage for Autism Spectrum Disorder; HB 2744**

**HB 2744** requires health insurance coverage for the diagnosis and treatment of Autism Spectrum Disorder (ASD) in children under the age of 12 years and creates the Applied Behavior Analysis (ABA) Licensure Act (Act). The bill requires large health insurance plans to provide ASD coverage effective January 1, 2015; extends the autism coverage requirement to grandfathered individual or small group plans effective July 1, 2016; places limits on ABA coverage, with higher limits for the first four years beginning with the later of the date of diagnosis or January 1, 2015, for children diagnosed with ASD between birth and 5 years of age and then reduced limits for children less than 12 years of age; defines terms related to ASD; phases in licensure requirements for ABA providers and allows for exemption from licensure for certain providers; requires the Behavioral Sciences Regulatory Board (BSRB) to adopt rules and regulations for the implementation and administration of the Act; authorizes the BSRB to take disciplinary action as to the licenses of licensees and applicants for licensure; and applies

the ASD coverage requirement outlined in New Section 1 of the bill to all insurance policies, subscriber contracts or certificates of insurance available to individuals residing or employed in Kansas and to corporations organized under the Nonprofit Medical and Hospital Service Corporation Act.

Further details are addressed below.

### ***Affected Plans***

Coverage for the diagnosis and treatment of ASD for any covered individual less than 12 years old is required under:

- Any large group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization that provides coverage for accident and health services and which is delivered, issued for delivery, amended, or renewed on or after January 1, 2015; and
- Any grandfathered individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society, or health maintenance organization that provides coverage for accident and health services and which is delivered, issued for delivery, amended, or renewed on or after January 1, 2016.

*[Note: Grandfathered plans are health insurance plans in existence on or before March 23, 2010, that are exempt from certain changes required under the Affordable Care Act. Grandfathered plans could lose their grandfathered status as provided in 26 CFR § 54.9815-1251T(g)(1), 29 CFR § 2590.715-1251(g)(1), and 45 CFR § 147.140(g)(1).]*

### ***Unaffected Plans***

The ASD coverage requirements do not apply to any policy or certificate providing coverage for any specified disease, specified accident or accident-only coverage, credit, dental, disability income, hospital indemnity, long-term care insurance as defined by KSA 40-2227, vision care or any other limited supplemental benefit; to any Medicare supplement policy of insurance defined by the Insurance Commissioner by rules and regulations; any coverage issued as a supplement to liability insurance, workers' compensation or similar insurance; automobile medical-payment insurance; or any insurance under which benefits are payable with or without regard to fault, whether written on a group, blanket, or individual basis.

The ASD coverage requirements are not to be construed as limiting benefits otherwise available under any individual or group health insurance plan.

### ***Covered Services***

ASD coverage is to be provided in a manner determined by consultation with the autism services provider and the patient. ASD services include ABA when required by a licensed physician, licensed psychologist, or licensed special clinical social worker, but otherwise are limited to care, services, and related equipment prescribed or ordered by these same licensed providers.

### ***Non-covered Services***

The bill does not require coverage for or payment of:

- Full or partial day care or habilitation services, community support services, services at intermediate care facilities, school-based rehabilitative services, or overnight, boarding and extended stay services at facilities for autism patients; or
- Services that are otherwise provided, authorized, or required to be provided by public or private schools receiving any state or federal funding for such services.

Only those services actually provided on an hourly basis or fractional portion thereof by certified ABA providers are required to be covered.

### ***Coverage Limits***

Coverage for ABA is subject to the following limitations:

- 1,300 hours per calendar year for four years beginning on the later of the date of diagnosis or January 1, 2015, for any covered individual diagnosed with ASD between birth and five years of age; and
- After the first four years of coverage as described above, the limit is 520 hours per calendar year for any covered individual less than 12 years of age.

The bill provides that, with prior approval by the health benefit plan, the maximum benefit limit for ABA services may be exceeded if such provision is medically necessary for the individual. Payment by an insurer for care, treatment, intervention, service, or item for treatment unrelated to ASD is not applied toward the maximum benefit limit for ABA services.

Except for ABA coverage, ASD services are not subject to the age and hour limitations imposed by the bill. No insurer is allowed to terminate coverage or refuse to deliver, execute, issue, amend, adjust, or renew coverage to an individual solely because the individual is diagnosed with or has received treatment for ASD.

With the exception of the ABA coverage limitations allowed under the bill, individual and group health insurance plans that provide coverage for ASD are not allowed to:

- Impose any dollar limits, deductibles, or coinsurance provisions on ASD coverage that would be less favorable to an insured than those applicable to physical illness generally under the accident and sickness insurance policy; or

- Impose limitations on the number of visits a covered individual may make for treatment of ASD.

### ***Reimbursement***

Beginning January 1, 2015, through June 30, 2016, reimbursement is allowed only for services provided by a provider licensed, trained, and qualified to provide such services or by an autism specialist or an intensive individual service provider, as defined by the Kansas Department for Aging and Disability Services (KDADS) Autism Waiver.

On and after July 1, 2016, reimbursement is allowed only for services provided by an autism services provider licensed or exempt from licensure under the Act; except reimbursement is allowed for services provided by an autism specialist, an intensive service provider, or any other individual qualified to provide services under the Home and Community Based Services (HCBS) Autism Waiver administered by KDADS.

Any insurer or other entity which administers claims for ASD services has the right and obligation to deny a claim based on medical necessity or a determination the maximum medical improvement for the covered individual's ASD has been reached.

Except for inpatient services, an insurer has the right to review the ASD treatment plan once during a six-month period, unless the insurer and the insured's treating physician or psychologist agree a more frequent review is necessary. The agreement to review a treatment plan more frequently applies only to the particular insured and not to all individuals being treated for ASD by a physician or psychologist.

### ***Definitions***

The following terms are defined in the bill:

- "Applied behavior analysis" (ABA) means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior;
- "Autism spectrum disorder" (ASD) means a neurobiological disorder, an illness of the nervous system, which includes autistic disorder, Asperger's disorder, pervasive developmental disorder not otherwise specified, Rett's disorder, and childhood disintegrative disorder. The detailed diagnostic criteria for each specific ASD disorder included in the bill are as outlined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (DSM-IV), without specific reference to the DSM-IV in the bill. [The bill provides that individuals diagnosed with ASD under the diagnostic criteria available at the time of diagnosis are not required to undergo additional or repeated evaluation based upon the adoption of a subsequent DSM edition by rules and regulations of the BSRB to remain eligible for ASD coverage.]; and

- “Grandfathered health benefit plan” has the meaning ascribed in 42 USC § 18011 and includes both small employer group health benefit plans that are grandfathered and individual health benefit plans that are grandfathered.

The bill also defines “diagnosis of autism spectrum disorder,” “health benefit plan,” “large employer,” and “small employer.”

### ***No Pilot Project Requirement***

Statutory provisions requiring a state employee group pilot project for new mandated health benefits do not apply to ASD coverage under the provisions of the bill.

### ***Hardship Waiver for Small Employer Group Health Plans***

The Insurance Commissioner is required to grant a waiver from the ASD coverage requirements to a small employer with a group health benefit plan if the small employer demonstrates, with actual claims experience over any consecutive 12-month period, that compliance with ASD coverage requirements has increased the premium cost of the health insurance policy by 2.5 percent or greater over a calendar year.

### ***Applied Behavior Analysis Licensure Act***

The bill creates the Applied Behavior Analysis Licensure Act for the licensure of ABA service providers by the BSRB.

### ***Definitions***

Definitions under the Act for “ABA,” “ASD,” and “diagnosis of ASD” are consistent with those found in New Section 1 of the bill.

Additional terms defined under the Act include:

- “Autism service provider” means any person who:
  - Provides diagnostic or treatment services for ASD who is licensed by the State of Kansas; or
  - Is licensed by the BSRB as a licensed behavior analyst or a licensed assistant behavior analyst;
- “Board” means the BSRB;
- “Certifying entity” is defined as the national accredited Behavior Analyst Certification Board or other equivalent nationally accredited nongovernmental agency approved by the BSRB which certifies individuals who have completed academic, examination, training, and supervision requirements in ABA;
- “Line therapist” means an individual who:

- Provides supervision of an individual diagnosed with ASD and other neurodevelopmental disorders pursuant to the described treatment plan; and
- Implements specific behavioral interventions as outlined in the prescribed treatment plan under the direct supervision of a licensed behavior analyst; and
- “Licensed assistant behavior analyst” (LaBA) and “licensed behavior analyst” (LBA) mean an individual who is certified by the certifying entity as a certified assistant behavior analyst or a certified behavior analyst, respectively, and meets the licensing criteria established by the BSRB by rules and regulations.

The bill also defines “controlled substance” as a substance included in the controlled substance schedules in state statute and defines “treatment for ASD.”

### *Licensure Requirements*

On or after July 1, 2016, ABA practice is restricted to:

- LBAs;
- Any LaBA working under the supervision of an LBA;
- An individual who has a bachelor’s or graduate degree and completed course work for licensure as a behavior analyst and is obtaining supervised field experience under an LBA pursuant to required supervised work experience for licensure at the LBA or LaBA level; or
- Any licensed psychologist practicing within state rules and standards of practice for psychologists and whose practice is commensurate with the psychologist’s level of training and experience.

The BSRB is not allowed to issue a license under the Act until the applicant provides proof the certification requirements of a certifying entity have been met.

### *Persons Exempt from Licensure under the Act*

Licensing requirements for the practice of ABA under the Act do not apply to any person:

- Licensed by the BSRB who practices any component of ABA within the scope of such person’s license and scope of practice as required by law;
- Who provides services under:
  - The federal Individuals with Disabilities Education Act; or
  - Section 504 of the federal Rehabilitation Act of 1973;

- Enrolled in a course of study at a recognized educational institution through which such person provides ABA as part of a supervised clinical experience;
- Who is an autism specialist, an intensive individual service provider, or any other individual qualified to provide services under the HCBS Autism Waiver administered by KDADS;
- Who is an occupational therapist licensed by the State Board of Healing Arts, acting within such person's scope of license and practice, as required by law; or
- Who is a speech-language pathologist or audiologist licensed by KDADS, acting within such person's scope of license and practice, as required by law.

### *Disciplinary Action*

The BSRB is authorized to deny, suspend, revoke or refuse renewal of any license issued under the Act upon finding the applicant or licensee has committed acts itemized in the bill as creating grounds for disciplinary action. Included among the 15 grounds for disciplinary action established by the bill are the following:

- Use of any controlled substance or alcoholic beverage to an extent as to impair the person's ability to perform the work of any profession licensed or regulated by this Act;
- A final adjudication and finding of guilt, or entry of a plea of guilty or *nolo contendere*, in a criminal prosecution under any state or federal laws, for any offense:
  - Reasonably related to the qualifications, functions or duties of any professional licensed or regulated under the Act;
  - With fraud, dishonesty or an act of violence as an essential element; or
  - Involving moral turpitude, whether or not a sentence is imposed;
- Commission of any act of incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of any profession licensed by the BSRB; or
- A guilty finding of unprofessional conduct or professional incompetency as defined by the BSRB by rules and regulations.

### *Rules and Regulations Authority*

The BSRB is required to establish the rules and regulations needed to implement and administer the Act. The rules and regulations are to include, but not be limited to:

- Form and content of initial and renewal license applications;
- Establishment of fees for licenses and renewals;

- Educational and training requirements of LBAs and LaBAs;
- Roles, responsibilities, and duties of LBAs and LaBAs;
- Characteristics of supervision and supervised clinical practicum experience for LBAs and LaBAs;
- Supervision of LBAs and LaBAs;
- Continuing education requirements for LBAs and LaBAs;
- Standards of professional competency and conduct; and
- Such other rules and regulations deemed necessary by the BSRB to carry out the provisions of the Act.

***Additional Applicability of Autism Coverage Requirement***

The ASD coverage requirement outlined in the bill applies to all insurance policies, subscriber contracts or certificates of insurance delivered, renewed, or issued for delivery in or outside the state or used in the state by or for an individual who resides or is employed in the state.

Corporations organized under the Nonprofit Medical and Hospital Service Corporation Act are subject to the ASD coverage requirements outlined in the bill.

## HEALTH

### **Meriden's Law—Certificates of Birth Resulting in Stillbirth; SB 258**

**SB 258** enacts Meriden's Law, which is made part of and supplemental to the Uniform Vital Statistics Act. The bill requires the State Registrar to establish a certificate of birth resulting in stillbirth that contains personal and demographic information describing the stillbirth event. The bill prohibits the inclusion of information relating to the child's death, however, and states the certificate is not proof of a live birth.

In continuing law, the bill replaces "product of human conception" with "human child" in the definition of "live birth." Additionally, the bill amends the definition of "stillbirth" to mean any complete expulsion or extraction from its mother of a human child the gestational age of which is not less than 20 completed weeks, resulting in other than a live birth and which is not an induced termination of pregnancy. "Gestational age" is defined as the age of the human child as measured in weeks as determined by either the last date of the mother's menstrual period, or a sonogram conducted prior to the twentieth week of pregnancy or the confirmed known date of conception. Additionally, the bill strikes the definition of "induced termination of pregnancy." Instead, "induced termination of pregnancy" means "abortion" as defined elsewhere in statute. Finally, the bill strikes "fetus" in a section requiring a funeral director or person acting as such who first assumes custody of a dead body to file the death certificate.

### **Hospital Liens—Filing and Notification Requirements; SB 424**

**SB 424** amends hospital lien filing and notification requirements to specify when filing a hospital lien in the district court, the hospital's written notice must set forth the amount of all of the hospital's claims, the name of the injured person, the date of the accident, and the name and location of the hospital. The hospital, under requirements in continuing law, must file the written notice prior to any money being paid as compensation for the injuries to the injured person, the person's attorneys or legal representatives.

The bill deletes other filing requirements from the notice to the district court, including an itemized statement of all claims, the name and address of the injured person, and the names of the parties alleged to be liable for the injuries. The bill also eliminates a provision requiring the hospital to give notice to the potentially liable party and related insurance carrier, if known. Under a requirement modified by the bill, the hospital must send a copy of the written notice to the patient if the address is known or can, with reasonable diligence, be ascertained.

### **Pharmacy Act Amendments; Collaborative Drug Therapy Management Committee; Senate Sub. for HB 2146**

**Senate Sub. for HB 2146** makes several amendments to the Kansas Pharmacy Act. Among the amendments, the bill adds the definitions of "collaborative drug therapy management," "collaborative practice agreement," "practice of pharmacy," and "physician" to the Act; clarifies prescription refill restrictions; and creates the Collaborative Drug Therapy Management Advisory Committee. Additionally, the bill allows the Board of Pharmacy, through rules and regulations, to change the timing of expiration dates for licenses, registrations, and permits issued by the Board and to allow for the prorating of fees for license and registration periods. Finally, the bill modifies examination requirements and creates a requirement regarding continuing education program for pharmacy technicians.

## Pharmacy Act—Definitions, Refills and Advisory Committee

The “practice of pharmacy” definition is amended to include performance of collaborative drug therapy management pursuant to a written collaborative practice agreement with one or more physicians who have an established physician-patient relationship.

The following definitions are added to the Act:

- Collaborative practice agreement:
  - A written agreement or protocol between one or more pharmacists and one or more physicians providing for collaborative drug therapy management;
  - The contents of the collaborative practice agreement will be required to contain conditions or limitations pursuant to the collaborating physician’s orders; and
  - The collaborative practice agreement will be required to be within the physician’s lawful scope of practice and appropriate to the pharmacist’s training and experience;
- Collaborative drug therapy management:
  - A pharmacist will be allowed to perform patient care functions for a specific patient delegated to the pharmacist by a physician through a collaborative practice agreement;
  - A physician who enters into a collaborative practice agreement will remain responsible for the care of the patient throughout the collaborative drug therapy management process; and
  - A pharmacist will not be permitted to alter a physician’s orders or directions, diagnose or treat any disease, independently prescribe drugs, or independently practice medicine and surgery; and
- Physician: A person licensed to practice medicine and surgery in Kansas.

### **Refills**

The bill eliminates language stating no more than 12 refills are allowed within 18 months following the prescription issue date for a non-controlled substance prescription drug or device. (This language was in conflict with statutory language stating all prescriptions expire one year from the date written.)

### **Dispense as Written**

The bill clarifies if a prescriber electronically signs a prescription and wants that prescription to be dispensed as written, disallowing a generic brand exchange, it must be so stated on the prescription.

### ***Collaborative Drug Therapy Management Advisory Committee***

The bill also creates the seven-member Collaborative Drug Therapy Management Advisory Committee for the purpose of promoting consistent regulation and enhancing coordination between the Kansas Board of Pharmacy and the Kansas Board of Healing Arts and with jurisdiction over licensees involved in collaborative drug therapy management. The Committee advises and makes recommendations to the boards on matters relating to collaborative drug therapy management.

The Committee's membership consists of the following:

- One member of the Board of Pharmacy, appointed by the Board of Pharmacy, who will serve as the nonvoting chairperson;
- Three licensed pharmacists appointed by the Board of Pharmacy, at least two of whom have experience in collaborative drug therapy management; and
- Three licensed physicians, appointed by the Board of Healing Arts, at least two of whom have experience in collaborative drug therapy management.

When making appointments to the Committee, the Board of Pharmacy is required to consider any names submitted by the Kansas Pharmacists Association, and the Board of Healing Arts is required to consider any names submitted by the Kansas Medical Society.

Initially, Committee members serve staggered terms, with one pharmacist and one physician serving for one year and two pharmacists and two physicians serving for two years. Thereafter, all members serve two-year terms. Committee expenses are to be divided equally between the boards.

### **License, Registration, and Permit Expiration and Renewal**

Under the bill, the expiration dates for licenses, registrations, and permits set in statute as dates certain are removed and replaced with Board authority to establish expiration dates by rules and regulations. Registrations for pharmacy technicians will change to a system of biennial renewals established by rules and regulations. Pharmacist licenses will continue to be renewed biennially, and all other registrations and permits issued by the Board will continue to expire annually, but the expiration dates for both groups are to be determined by rules and regulations.

The 30-day grace period for renewal of a pharmacist license, a pharmacy technician registration, and registrations and permits for other entities under the authority of the Board is removed. Payment of renewal fees is required prior to the expiration of the license or registration. Prorating of fees for pharmacist licenses or pharmacy technician registration periods less than those established by the Board by rules and regulations is allowed.

Application forms presently sent for the renewal of registrations and permits for pharmacies, drug manufacturers, wholesale drug distributors, sales at public auctions, samples distributors, retail distributors, institutional drug rooms, and veterinary medical teaching hospital pharmacies will be replaced with a mailed renewal notice.

The pharmacy student registration and fee requirements are eliminated.

### ***Pharmacy Technicians—Examination Requirements***

The bill amends this registration provision to allow the Board of Pharmacy to increase the number of examinations required to be passed by a pharmacy technician to one or more. Under previous law, a pharmacy technician was required to pass one examination which is approved by the Board.

The bill also allows the Board to determine the amount of time a pharmacy technician is allowed to pass the required examination(s) after becoming registered. Previous law required an examination be passed within 30 days of becoming registered.

Additionally, the bill requires any pharmacy technician applying for renewed registration to provide satisfactory evidence to the Board of compliance with rules and regulations of continuing pharmacy technician education.

### **Maximum Fees for Duplicate Permits and Certain Renewals**

Fees for duplicate registrations or permits are limited to not more than \$1.25 for permits and \$10.00 for certificates of registration. Renewal fees for samples distribution permits are limited to not more than \$50.00. Renewal fees for durable medical equipment registrations are limited to not more than \$300.00.

### **Elimination of Single Registration for Multiple Facilities**

The bill eliminates the single registration option for a manufacturer or distributor of any drugs operating more than one facility in the state or for a parent entity with divisions, subsidiaries, or affiliate companies within the state when operations are conducted in more than one location and there is joint ownership and control among all the entities.

### **Pharmacy Interns**

The bill provides for the registration, discipline, training, and oversight of pharmacy interns. The new provisions relating to pharmacy interns are considered part of the Kansas Pharmacy Act.

### ***Fees and Expiration of Registrations***

The pharmacy intern registration fee will be fixed by rules and regulations of the Board in an amount not to exceed \$25.00, and the registration will expire six years from the date of issuance.

### ***Discipline***

The Board may limit, suspend, or revoke a registration, or deny an application for issuance or renewal of any pharmacy intern on the same grounds the Board would have authority to take action against the license of a pharmacist. The Board also is allowed to temporarily suspend or temporarily limit the registration of any pharmacist intern with an emergency adjudicative proceeding under the Kansas Administrative Procedure Act if grounds

exist for disciplinary action and continuation of pharmacist intern functions would constitute an imminent danger to public health and safety.

### ***Change in Employer and Posting Requirements***

Pharmacy interns are required to provide the Board with the name and address of a new employer within 30 days of obtaining new employment. Each pharmacy is required to maintain a list of the names of pharmacy interns employed by the pharmacy. Pharmacy intern registrations are required to be displayed in the part of the business where the intern works.

### ***Training; Oversight by Supervising Pharmacist***

The bill authorizes the Board to adopt rules and regulations necessary to ensure pharmacy interns are adequately trained as to the nature and scope of their duties.

Pharmacy interns are required to work under the direct supervision and control of a pharmacist, who will be responsible to determine that the pharmacy intern is in compliance with applicable rules and regulations of the Board and who will be responsible for the acts and omissions of the pharmacist intern in performing the intern's duties.

### **Inspections of Dual-Licensed Salons and Barber Shops; Sub. for HB 2436**

**Sub. for HB 2436** amends law related to the Board of Cosmetology and the Board of Barbering to allow the chairpersons of the boards, with the approval of each respective board, to enter into an agreement as to which board's inspectors shall inspect a dual-licensed salon and barber shop. (Such dual-licensed facilities have been inspected by inspectors from both boards.)

Designated inspectors will perform all duties required by both boards and by sanitation standards adopted by the Secretary of Health and Environment. Additionally, designated inspectors will be trained by both boards as required by the applicable statutes and rules and regulations of both boards.

### **Making Name and Substantive Changes Regarding the Kansas Department for Children and Families and the Kansas Department for Aging and Disabilities Services Consistent with ERO No. 41; HB 2515**

**HB 2515** amends various statutes to conform with Executive Reorganization Order (ERO) No. 41. Among the amendments, the bill updates the names of state agencies subject to the ERO and eliminates certain provisions in the statutes contained in the bill that have expired.

The 2012 Legislature approved the implementation of ERO No. 41, effective July 1, 2012, which:

- Renamed the Kansas Department on Aging and the Secretary of Aging as the Kansas Department for Aging and Disability Services (KDADS) and the Secretary for Aging and Disability Services, respectively; and

Health

**Making Name and Substantive Changes Regarding the Kansas Department for Children and Families and the Kansas Department for Aging and Disabilities Services Consistent with ERO No. 41; HB 2515**

- Renamed the Kansas Department of Social and Rehabilitation Services and the Secretary of Social and Rehabilitation Services as the Kansas Department for Children and Families (DCF) and the Secretary for Children and Families, respectively.

In addition, the ERO transferred certain powers, duties, and functions from the DCF and the Department of Health and Environment to the KDADS.

**Prompt Payment of Claims by Managed Care Organizations and Legislative Approval Required for Medicaid Expansion; HB 2552**

**HB 2552** enacts new law relating to a requirement on contracts between the Kansas Medical Assistance Program (KMAP) and any managed care organization (MCO) and amends the law pertaining to the guidelines for medical assistance to prohibit the expansion of Medicaid eligibility without the express consent and approval of the Legislature.

***Prompt Payment of Claims***

The bill requires any contract between the KMAP and any MCO to require the allowed amount on all clean claims be fully paid or denied within 30 days after receipt and the allowed amount on all other claims be fully paid or denied within 90 days after receipt. The bill also requires the contract to include a late payment provision which requires the MCOs to pay the provider at the rate of 12.0 percent per annum for each month the MCO does not fully pay the allowed amount or deny the claims within the assigned time limits.

The bill also requires the KMAP to require MCOs' contracts with providers to include a provider's rights provision. A provider with a claim that remains unpaid by an MCO after the applicable time limits may bring a direct cause of action against the MCO for the amount of the unpaid claim and interest.

The terms "claim" and "clean" are assigned the same meanings as provided in 42 CFR § 447.45(b).

The bill requires the Secretary of Health and Environment to adopt rules and regulations to carry out the claim payment requirements and penalties.

***Legislative Approval of Medicaid Expansion***

Additionally, the bill amends the law pertaining to the guidelines for medical assistance to prohibit the expansion of Medicaid eligibility, as provided for in the federal Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010, unless the Legislature expressly consents to and approves of this expansion by an act of the Legislature.

## Health Care Compact; HB 2553

**HB 2553** allows Kansas to join the Interstate Health Care Compact. The Compact would allow Compact Member States to regulate health care within their boundaries and to secure federal funding for Member States that choose to invoke their authority under the funding provisions of the Compact. The U.S. Congress will have to consent to the Compact in order for it to be effective. If approved by Congress, the Compact will become effective on its adoption by at least two Member States. Pursuant to the bill, the Compact could be amended, and a state will be able to withdraw from the Compact.

The bill contains a preamble that includes statements on the importance of the separation of powers, including between federal and state authority, and the preservation of individual liberty and personal control over health care decisions. The bill then establishes the nine articles of the Compact, as follows:

### ***Article I – Definitions***

A number of terms are defined, including the following:

- “Health Care” includes care, services, supplies, or plans related to an individual’s health, with further detail specified in the bill. The definition excludes any care, services, supplies, or plans provided by the U.S. Department of Defense and the U.S. Department of Veterans Affairs, as well as those provided to Native Americans.
- A number of definitions related to a state’s funding level. These are used in Article V and include “Member State Base Funding Level,” which means a number equal to the total federal spending on health care in the Member State during federal fiscal year 2010. For Kansas, the preliminary estimate is set at \$6.985 billion. A number of other terms also use the 2010 federal fiscal year as a base. (See Article V, below, for the application of several of the defined terms.)

### ***Article II – Pledge***

This Compact provision requires Member States to take action to secure the consent of the U.S. Congress to return the authority to regulate health care to the Member States, consistent with the Compact’s provisions. Article II also requires Member States to improve health care policy within their respective jurisdictions, according to each state’s discretion.

### ***Article III – Legislative Power***

This provision grants Member States’ legislatures the primary responsibility to regulate health care in their respective states.

### ***Article IV – State Control***

Article IV grants each Member State the authority to suspend by legislation the operation of all federal laws, rules, regulations, and orders regarding health care that are inconsistent with

those adopted by the Member State based on the Compact. Those federal provisions that are not suspended remain in effect, and the Member State in question is responsible for the associated funding obligations.

### ***Article V – Funding***

The following provisions are set forth:

- Each Member State is granted the right to federal monies each federal fiscal year up to an amount equal to its “Member State Current Year Funding Level” (defined in Article I as the “Member State Base Funding Level” multiplied by the “Member State Current Year Population Adjustment Factor” and further multiplied by the “Current Year Inflation Adjustment Factor”). This funding will come from Congress as mandatory spending and will not be subject to annual appropriation. It is not conditional on any action of or regulation, policy, law, or rule being adopted by the Member State.
- Congress will be required to establish, by the start of each federal fiscal year, an initial “Member State Current Year Funding Level” based upon reasonable estimates. The final “Member State Current Year Funding Level” must be calculated, and funding must be reconciled by Congress based on information provided by the Member State and audited by the U.S. Government Accountability Office.

### ***Article VI – Interstate Advisory Health Care Commission***

This article establishes the Interstate Advisory Health Care Commission, sets its membership to include not more than two members from each Member State in a process to be determined by the Member State, authorizes it to elect a chairperson from its membership and adopt bylaws and policies, and requires it to meet at least once a year. Further, the Commission is:

- Authorized to study health care regulation issues that are of concern to the Member States and make non-binding recommendations to the Member States; and
- Required to gather information to assist the Member States in their regulation of health care and make this information available to the Member States’ legislatures. Member States are prohibited from disclosing health information of any individual to the Commission, and the Commission likewise is prohibited from disclosing an individual’s health information.

The bill requires the Commission to be funded by the Member States, and it prohibits the Commission from taking any action within a Member State that contravenes any state law of that state.

### ***Article VII – Congressional Consent***

This article deems the Compact effective upon its adoption by at least two Member States and consent of Congress. The article also sets forth the purposes of the Compact and states the Compact is effective unless the Congress, in consenting to the Compact, alters its fundamental purposes. Those purposes are:

- To secure the right of the Member States to regulate health care within their boundaries pursuant to the Compact and to suspend the operation of any conflicting federal laws, rules, regulations, and orders within their states; and
- To secure federal funding for Member States that choose to invoke their authority under Article V of the Compact.

### ***Articles VIII and IX***

These articles provide for mechanisms to amend the Compact and for a state to withdraw from the Compact. For withdrawal, the bill allows a state to adopt a law to this effect; however, the law will not take effect until six months after the governor has given notice of the withdrawal to the other Member States.

### **Dental Offices; HB 2611**

**HB 2611** reduces the amount of time a licensed dentist is required to be present in a dental office if the licensed dentist is a full or partial owner, the office advertises the dentist's name, or two or more dentists associate together for the practice of dentistry or with persons licensed to practice medicine and surgery. The previous law required a dentist to be present in the office during a majority of hours the office was being operated. The bill reduces the percentage of time to at least 20.0 percent of the time patients are being treated in the office.

### **Changes to the Kansas Healing Arts Act, the Kansas Physician Assistant Licensure Act, and the Podiatry Act; HB 2673**

**HB 2673** updates and modernizes provisions and terminology in the Kansas Healing Arts Act (HAA) and the Kansas Physician Assistant Licensure Act and amends the Podiatry Act to expand and clarify the scope of podiatry and podiatric surgery and to create an advisory committee to the State Board of Healing Arts.

The changes made by the bill to the HAA and the Physician Assistant Licensure Act include, in part, terminology and definition changes, requiring participation in the Health Care Stabilization Fund as a "health care provider," replacing the statutory limitation on the number of physician assistants (PAs) that can be supervised by a physician and directing the Kansas State Board of Healing Arts (Board) to establish regulations imposing limits appropriate to different patient care settings, making uniform the administrative and regulatory structures among the 13 health professions licensed by the Board, addressing the reporting requirements and discipline of professions regulated by the Board and of PAs, amending educational requirements for out-of-state applicants, changing expiration and renewal standards for institutional licenses, creating a new category of physician "re-entry" license and new licensure designations for PAs, and clarifying the information required to be published on the Board website regarding licensed PAs.

Changes also are made to statutes outside of the HAA and the Physician Assistant Licensure Act to replace references to designated or responsible physician with “supervising physician” or correct references to physician assistant. Technical amendments also are made. Specific changes made by the bill are described below.

### ***Effective Dates***

Sections in the bill relating to the HAA and the Physician Assistant Licensure Act take effect and are in force from and after July 1, 2015. Sections in the bill relating to the Podiatry Act took effect upon publication in the *Kansas Register*.

### ***General Terminology Changes***

The bill makes the following terminology changes in various statutes:

- References to “physician’s assistants” are replaced with “physician assistants”; and
- “Supervising physician” replaces “responsible physician” and “designated physician.” [This change was not made when referencing the authority of an advanced practice registered nurse to prescribe drugs pursuant to a written protocol in the definition of a mid-level practitioner in the Kansas Uniform Controlled Substances Act and the Kansas Pharmacy Act.]

### ***Healing Arts Act***

#### ***Definition and Terminology Changes***

The following changes are made:

- The term “healing arts” is expanded to include the alteration or enhancement of a condition or appearance, to reflect preventative and elective procedures;
- Conditions that constitute the unlawful practice of professions licensed by the Board are expanded beyond references to licensure to include references to those engaging in the practice of professions licensed by the Board without a registration, permit or certificate, or practicing with a revoked or suspended registration, permit or certificate;
- References to a licensee in the active practice or regularly engaged in the practice of the healing arts within the state are replaced with the reference to an active licensee;
- References to “the healing arts” are replaced with “any profession regulated by the Board”; and

- The term “supervising” is added to “responsible licensee” and the term “written agreements” is added to “practice protocols” as this term relates to licensees who direct, supervise, order, refer, accept responsibility for, enter into practice protocols with, or delegate acts which constitute practice of healing arts to others.

### *Changes to the Board*

The bill requires a list of three or more names of licensed podiatrists be submitted to the Governor by the professional society or association from the podiatry branch of healing arts for consideration in appointing the licensed podiatrist member to the Board.

### *Penalties for Unlawful Practice*

The bill establishes penalties for the unlawful practice of a profession regulated by the Board that may result in the violator being liable to the state or county for the payment of a civil penalty of up to \$1,000 per day for each day the person engages in such unlawful practice or for the assessment of the reasonable costs of investigation and prosecution. Violations for the unlawful practice increase from a class B misdemeanor to a severity level 10, nonperson felony.

### *Licensure Changes*

#### Active License

The specific designation of an “active license” is created and issued to any licensee upon written application and payment of the established fee for an active license.

#### Exempt License

The Board has the option to require any person who holds an exempt license to provide proof of completion of continuing education. The Board also is authorized to establish requirements for continuing education for exempt licensees of each branch of the healing arts by rules and regulations.

#### Reentry License

The new designation of a “reentry license” is created to allow for the licensure of a licensee who has not been in the active practice for more than two years but meets all the qualifications for licensure and desires to return to active practice.

Before issuing a reentry license, the Board may require the individual applying for such license to meet requirements deemed necessary to establish the individual’s present ability to practice with reasonable skill and safety. The requirements for issuing, renewing, and scope of practice for a reentry license will be established by the Board through rules and regulations.

### Licensure by Endorsement

The requirement that an individual seeking licensure by endorsement provide the Board with the time and reason for being out of practice is removed. The Board is authorized to adopt rules and regulations establishing qualitative and quantitative practice activities that qualify as active practice. The requirement that those seeking licensure by endorsement meet all the Kansas legal requirements is changed to allow for recognition of equivalent standards for endorsement, as determined by the Board.

### Institutional License

The bill amends provisions related to institutional licenses. The bill removes the requirement for applicants who attend out-of-state schools of medicine or osteopathic medicine to have attended a school that has been in operation for at least 15 years. The requirement that such an applicant have attended an institution whose graduates have been licensed in a state or states with standards similar to Kansas remains.

The bill removes the option for an institutional license holder to provide mental health services pursuant to written protocol with a person who holds a license that is not an institutional license. Instead, the institutional license holder is required to meet previously optional requirements:

- Be employed by certain mental health facilities, for at least three years; and
- Practice is limited to providing mental health services, is a part of the licensee's paid duties, and is performed on behalf of the employer.

The bill also permits the Board to set expiration dates for institutional licenses and allows the Board to provide for license renewal throughout the year on a continuing basis. The Board is permitted to prorate the fee for any institutional license renewed for less than 12 months. License renewals are made on a form provided by the Board and accompanied with payment of the prescribed fee by the expiration date. Instead of a renewal for an additional two years, the bill allows for a renewal for one additional year upon meeting specific requirements.

### Fees

The bill removes a reference to examinations given by the Board in a provision authorizing fees to be established by the Board by rules and regulations.

### Address Change

The bill requires a licensee to notify the Board of changes to the licensee's practice address within 30 days of such a change.

### *Grounds for Disciplinary Action Against a Licensee*

The grounds allowing for the revocation, suspension, or limitation of a license, censure or probation of a licensee, or denial of an application for license or for reinstatement of a license, are amended to include the following:

- An offense in another jurisdiction that is substantially similar to a felony or class A misdemeanor;
- A conviction in a special or general court-martial, whether or not related to the practice of healing arts [A person who has been convicted of a felony or convicted in a general court-martial, who applies for an original license or for reinstatement of a canceled license, has his or her license denied unless approved by a two-thirds majority of the Board upon determination of fitness for practice.];
- The impairment of a licensee's ability to practice by reason of physical or mental illness, or condition or use of alcohol, drugs, or controlled substances. Information, reports, findings, and other records relating to the impairment are confidential and not subject to discovery by or release to any person or entity outside of a Board proceeding. [Provisions in statute applicable only to licensees addressing access to information and the process of investigations or disciplinary proceedings by the Board in cases involving suspected impairment are deleted and replaced with a universal procedure for any profession regulated by the Board.];
- The licensee has given a worthless check or stopped payment on a debit or credit card for fees or moneys legally due to the Board; and
- The licensee has knowingly or negligently abandoned medical records.

Unprofessional conduct giving rise to grounds for discipline is expanded to include:

- A limited liability company is added to those entities through which a licensee could receive or give compensation for professional services not actually and personally rendered; and
- The obstruction of a Board investigation, including falsifying or concealing a material fact, knowingly making or causing any false or misleading statement or writing to be made, or other acts or conduct likely to deceive or defraud the Board.

### *Reporting Requirements When Observing Grounds for Disciplinary Action*

Under continuing law, a licensee is required to report knowledge that a person has committed an act which may be grounds for disciplinary action by the Board. The bill amends the statute to define "knowledge" as "familiarity because of direct involvement or observation of

the incident.” The bill also removes the duty of a licensee acting solely as a consultant or providing review at the request of another to report such an act.

*Provisions Applicable to All Board-Regulated Professions in Disciplinary Actions*

With regard to disciplinary actions, the following apply to all professions regulated by the Board:

- The parties may enter into a stipulation;
- Parties may participate in emergency adjudicative proceedings when grounds exist for disciplinary action under the applicable practice act;
- Parties may participate in non-disciplinary resolutions with the Board or a committee of the Board, including professional development plans and letters of concern (Peer review committees are no longer involved in non-disciplinary resolutions.);
- Board investigative procedures, subpoena authority, and the process for challenging subpoenas apply in all investigations and proceedings conducted by the Board; and
- The Board has authority to compel the production of evidence upon noncompliance with an investigative subpoena if, in the opinion of the Board or its designee, the following specific conditions are present:
  - The evidence demanded relates to a practice which may be grounds for disciplinary action;
  - The evidence is relevant to the charge which is the subject of the investigation; and
  - The physical evidence required to be produced is described with sufficient particularity.
- The District Court has jurisdiction to issue an order requiring the person to appear before the Board or its authorized agent and produce the demanded evidence or to revoke, limit, or modify the subpoena upon application by the Board after exhaustion of available administrative remedies;
- Board authority to obtain criminal history information necessary to determine initial and continuing qualifications is extended to allow such information to be obtained for permit holders and certificate holders. Disciplinary measures for unauthorized disclosure of this information extend to permits and certificates issued under the HAA. Unless otherwise specified, it is not unlawful for the Board to disclose such information in a hearing held pursuant to the practice act of any profession regulated by the Board;

- Provisions of law making communications between a licensee, registrant, permit holder, or a certificate holder and the patient privileged do not apply to any investigations or proceedings of the Board. Previously, this applied only to communications between a physician and a patient; and
- Disciplinary counsel authority to investigate matters involving professional incompetency, unprofessional conduct, or any other matter which may result in disciplinary action is expanded beyond licensees to include all professions regulated by the Board.

### *Impairment of Ability to Practice*

Procedures used to address situations where a reasonable suspicion exists that a person's ability to practice a profession regulated by the Board with reasonable skill and safety to the patient is impaired by reason of physical or mental illness or condition, or use of alcohol, drugs or controlled substances apply to all professions regulated by the Board. The procedures allow for the following:

- Board authority to compel the person to submit to a mental or physical examination, substance abuse evaluation or drug screen, or a combination of these, by persons designated by the Board in the course of an investigation or a disciplinary proceeding;
- To determine whether reasonable suspicion of impaired ability exists, the investigative information is presented to the Board or a committee of the officers of the Board and the executive director or to a presiding officer, with the determination made by the majority vote of the entity reviewing the investigative information;
- The information submitted for use in making a determination of impairment and all reports, findings, and other records are confidential and not subject to discovery by or release to any person or entity;
- The person is required to submit a release of information authorizing the Board to obtain a copy of the examination or drug screen, or both;
- Persons are offered an opportunity to demonstrate the ability to resume the competent practice of their profession with reasonable skill and safety to patients;
- Persons accepting the privilege to practice a profession regulated by the Board by practicing or by making and filing a renewal application in the state are deemed to have consented to submit to a mental or physical evaluation, substance abuse evaluation or a drug screen, or any combination of these, when directed in writing by the Board. Such persons are deemed to have waived all objections to the admissibility of the testimony, drug screen or examination report of the person conducting the examination or drug screen at any Board hearing or proceeding on the ground that it is privileged communication;

- Records of any Board proceedings regarding the ability of a person to practice due to an impairment are considered confidential and not allowed to be used in any civil, criminal, or administrative action, other than an administrative or disciplinary proceeding by the Board; and
- The time from the Board's directive to any person regulated by the Board to submit to a physical or mental examination, substance abuse evaluation or drug screen until the submission to the Board of these reports is not included in the computation of the time limit for hearing under the Kansas Administrative Procedure Act (KAPA).

#### *Reinstatement of Revoked License, Registration, Permit, or Certificate*

Procedures available to licensees for reinstatement of a license apply to all professions regulated by the Board. Application for reinstatement is made on a form provided by the Board and accompanied by the fee for reinstatement of a revoked license, registration, permit, or certificate established by the Board under the applicable practice act.

#### *Penalties in Disciplinary Actions*

For all professions regulated by the Board, if the Board issues an order against the licensee, registrant, permit holder, certificate holder, or applicant for reinstatement of a license, costs incurred by the Board in conducting any investigation or proceeding under the KAPA can be assessed against the parties to the proceeding in such proportion as determined by the Board. The costs assessed are considered costs in an administrative matter pursuant to federal law. Reasonable investigative costs are added to the list of costs incurred, and such list is not limited to the costs itemized in statute.

A bond, in the form of cash or professional surety, is required when a licensee appeals a Board decision to the District Court. The KAPA applies to all administrative proceedings provided for by the practice act of each profession regulated by the Board.

Injunctive remedies for unlawful practice are available against any profession regulated by the Board or any profession defined by the practice acts administered by the Board without being duly licensed. The authority to prosecute criminally for unlawful practice applies to all professions regulated by the Board.

The penalty for false impersonation of a person issued a license, registration, permit, or certificate by the Board or for presenting a diploma or certificate belonging to another person for the purpose of obtaining a license is an unclassified nonperson felony and can subject the person to civil penalties and reasonable costs of the investigation and prosecution, unless otherwise specified. Civil fines assessed for a violation of the HAA are considered administrative fines pursuant to federal law.

The Board enforces provisions of all practice acts administered by the Board and makes all necessary investigations relative to those practice acts. The requirement to furnish the Board with evidence the person has of any alleged violation being investigated by the Board or to provide the Board with the name of persons practicing without a license applies to all professions regulated by the Board.

The Board has authority to promulgate all necessary rules and regulations to carry out the provisions of any practice act administered by the Board and to adopt rules and regulations to supplement provisions consistent with any such practice act.

The Attorney General and the county attorney or district attorney are allowed to sue for and collect reasonable expenses and investigation fees in cases brought in the name of the state or county under the HAA. Civil penalties or contempt penalties recovered by the attorney general are paid to the State General Fund, and the same penalties recovered by the county or district attorney are paid to the General Fund of the county where the proceedings were instituted.

An exemption to unlawful practice due to practicing with an expired or lapsed license that is reinstated within a six-month period is removed.

*Provision Added to the Kansas Healing Arts Act; Exclusion of Profession*

The bill adds a provision stating the administration and procedural provisions of the Kansas HAA applies to any profession regulated by the Board, unless otherwise specified. The bill adds those licensed by the State Board of Cosmetology to the list of persons not included in the practice of healing arts.

*Education Standards for Application to Practice Healing Arts*

The bill removes the requirement for applicants who attend non-accredited out-of-state schools to have attended a school that has been in operation for not less than 15 years. The requirement that such an applicant have attended an institution whose graduates have been licensed in a state or states with standards similar to Kansas remains.

The bill also creates standards for accreditation for schools of medicine and osteopathic medicine not tied to a particular institution. Schools of medicine are required to meet minimum educational standards set by the Liaison Committee on Medical Education or any successor organization that is the official accrediting body of educational programs leading to the degree of doctor of medicine, as recognized by the federal Department of Education and the Council on Postsecondary Education. Under prior law, schools of medicine must have met educational standards substantially equivalent to those of the University of Kansas School of Medicine. Schools of osteopathic medicine are required to meet minimum educational standards established by the American Osteopathic Association or any other successor organization that is the official accrediting body of educational programs leading to the degree of doctor of osteopathy. Under prior law, schools of medicine must have met educational standards substantially equivalent to Kirksville College of Osteopathy. The bill removes “laboratories” and “specimens” from the criteria to establish the minimum standards, and graduation requirements are added.

The bill also repeals the requirement that schools of healing arts be inspected, if requested, by the Board prior to accreditation.

### *Medical Records Maintenance Fund*

The bill requires all funds deposited into the Medical Records Maintenance Fund to be expended for the purpose of paying for storage, maintenance, and transfer of medical records.

Sections in the bill pertaining to the HAA are effective on and after July 1, 2015.

### ***Physician Assistant Licensure Act***

#### *Terminology and Definition Changes*

The following terminology and definition changes are made to the Physician Assistant (PA) Licensure Act:

- References to the State Board of Healing Arts are changed to “Board” and references to protocol are updated with “agreement”; and
- The definition of a responsible physician is changed to refer to a “supervising physician,” the definition of a designated physician is removed, and references to “a responsible or designated physician” are changed to “a supervising physician.”

#### *PA Licensure*

##### *Active License*

A designation of active license for a PA is created, with Board authority to issue an active license upon written application and payment of the fee for an active license. Renewal of an active license requires the licensee to submit to the Board evidence that the licensee is maintaining a required policy of professional liability insurance and has paid the required premium surcharges under the Health Care Stabilization Fund.

An inactive licensee is able to apply to engage in the active practice by written application and payment of the active license fee, submission of proof of professional liability insurance and payment of the required premium surcharges under the Health Care Stabilization Fund, and such other information required by rules and regulations adopted by the Board.

##### *Licensure by Endorsement*

A licensure by endorsement for PAs is created. The Board is authorized to issue a license by endorsement without examination to a person who has been in active practice as a PA in another state, territory, District of Columbia, or other country upon certificate of the proper licensing authority of those jurisdiction certifying that:

- The applicant is duly licensed;
- The applicant’s license has never been limited, suspended, or revoked;

- The licensee has never been censured or had other disciplinary action taken; and
- So far as the records of such authority are concerned, the applicant is entitled to its endorsement.

The applicant for licensure by endorsement is required to present satisfactory proof to the Board as follows:

- The state, territory, District of Columbia, or country in which the applicant last practiced has and maintains standards at least equal to those of Kansas;
- The applicant's original license was based on an examination at least equal in quality to that required in Kansas, and the passing grade required to obtain the original license was comparable to that required in this state;
- The date of the applicant's original and all endorsed licenses, and the date and place from which any license was obtained;
- The applicant has been actively engaged in practice under such license or licenses since issuance (The Board is authorized to adopt rules and regulations establishing appropriate qualitative and quantitative practice activities to qualify as an active practice.); and
- The applicant has a reasonable ability to communicate in English.

No licensure by endorsement is granted unless the Board determines the applicant's qualifications are substantially equivalent to this state's requirements.

In place of any other requirement required by law for satisfactory passage of any examination for PAs, the Board is allowed to accept evidence demonstrating that the applicant or licensee has satisfactorily passed an equivalent examination given by a national board of examiners for PAs.

#### Changes to Other PA Licensure Designations

The designation of a federally active license is eliminated. The bill also changes the length of time a temporary license for new graduates is valid, from one year to six months.

#### License Fees

The following license fee changes are made:

- Fees for a PA license are changed to fees for an active license, with no increase in cost;

- The fee for any license by endorsement is not to exceed \$200; and
- References to fees for a federally active license are removed.

### *Grounds for Disciplinary Action*

Additional grounds for disciplinary action against a licensed PA are created as follows:

- The licensee has been found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect, or is incompetent to stand trial by a court of competent jurisdiction;
- The licensee has violated a federal law or regulation relating to controlled substances;
- The licensee has failed to report to the Board any adverse action taken against the licensee in another state or licensing jurisdiction, by a peer review body, by a health care facility, by a professional association or society, by a governmental agency, or by a law enforcement agency or a court for acts or conduct similar to acts or conduct which constitute grounds for disciplinary action;
- The licensee has surrendered a license for authorization to practice as a PA in another state or jurisdiction, has surrendered the authority to utilize controlled substances issued by any state or federal agency, has agreed to a limitation to or restriction of privileges at any medical care facility, or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which constitute grounds for disciplinary action;
- The licensee has failed to report to the Board the surrender of the licensee's license to practice as a PA in another state or jurisdiction or the surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which constitute grounds for disciplinary action;
- The licensee has an adverse judgment, award, or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which constitute grounds for disciplinary action, or has failed to report any such action to the Board; or
- The licensee's ability to practice with reasonable skill and safety to patients is impaired by reason of physical or mental illness, or condition or use of alcohol, drugs, or controlled substances. All information, reports, findings, and other records relating to impairment are confidential and not subject to discovery by or release to any person or entity outside of a Board proceeding.

### *Penalties for Violations of the PA Licensure Act*

The following provisions are added regarding penalties for violations of the PA Licensure Act:

- Any violation is a class B misdemeanor;
- The Board is authorized to bring a court action in the name of the state for an injunction against violations of the PA Licensure Act, regardless of whether Board proceedings or criminal proceedings have been or may be instituted;
- In addition to any other penalty in the PA Licensure Act and after proper notice to a licensee and an opportunity to be heard, the Board is allowed to assess a civil fine against a licensee for a violation of the PA Licensure Act not to exceed the following amounts:
  - \$5,000 for the first violation;
  - \$10,000 for the second violation; and
  - \$15,000 for the third and subsequent violations;
- All such fines assessed and collected are remitted to the State Treasurer to be deposited in the State General Fund. If the Board is the unsuccessful party, the costs are paid from the Healing Arts Fee Fund;
- A licensee requirement to notify the Board in writing within 30 days of any changes in the licensee's home mailing address or primary practice address is created. The Board is authorized to assess a civil fine for violation of the change of address notice requirement not to exceed \$100 for the first violation and \$150 for each subsequent violation. These civil fines are in addition to any other penalty prescribed in the PA Licensure Act. If the Board is an unsuccessful party, the costs are paid from the Healing Arts Fee Fund; and
- Civil fines assessed by the Board are considered costs in an administrative matter pursuant to federal law.

### *Exemptions from the PA Licensure Act*

The bill exempts all PA program students from the requirements of the PA Licensure Act and provides a new definition for federal service PAs, who also are exempt.

### *Practice of a PA; Prescription-only Drugs*

The practice of a PA is expanded to allow a PA, when authorized by a supervising physician, to dispense prescription-only drugs under the following conditions:

- According to rules and regulations adopted by the Board governing prescription-only drugs;

- When dispensing is in the best interests of the patient and pharmacy services are not readily available; and
- Not in excess of the quantity necessary for a 72-hour supply.

#### *Rules and Regulations Applicable to PAs*

The bill adds the following language regarding rules and regulations applicable to PAs:

- Requires the Board to adopt rules and regulations governing the practice of PAs, including the delegation, direction, and supervision responsibilities of a supervising physician;
- Rules and regulations are required to establish conditions and limitations determined by the Board to be necessary to protect the public health and safety and may include a limit on the number of PAs that a supervising physician is able to safely and properly supervise; and
- In developing rules and regulations, the Board is required to consider the:
  - Amount of training and capabilities of PAs;
  - Different practice settings in which PAs and supervising physicians practice;
  - Needs of the geographic area of the state in which the PA and the supervising physician practice; and
  - Differing degrees of direction and supervision by a supervising physician appropriate for such settings and areas.

Both a supervising physician and a PA are required to notify the Board when the supervision and direction of the PA has terminated.

#### *Information Accessible to Public on Board Website*

The Board continues to make available, on a searchable website accessible to the public, information reported to the Board regarding licensees, unless otherwise prohibited by law. Information related to plea agreements or alleged commissions of a felony are not accessible on the website.

Sections in the bill pertaining to the PA Licensure Act become effective July 1, 2015.

#### ***Amendments to Other Statutes***

The following statutes are amended to replace references to a responsible physician with a supervising physician or to correct references to physician's assistant:

- Kansas Uniform Controlled Substances Act;
- Kansas Pharmacy Act;
- Revised Kansas Juvenile Justice Code;
- Kansas Insurance Code; and
- Statutes relating to the following:
  - The Kansas Board of Emergency Medical Services;
  - The organization, powers, and finances of Boards of Education regarding policies to allow a student to self-administer certain medications; and
  - Driving under the influence of alcohol and drugs.

The definition of “dispenser” is amended under the Kansas Uniform Controlled Substances Act and the Kansas Pharmacy Act to include a PA who has authority to dispense prescription-only drugs.

The provision of the Juvenile Justice Act included in the bill is updated to reflect changes in agency names. The Department of Social and Rehabilitation Services is changed to the Department for Children and Families, and the Juvenile Justice Authority is changed to the Department of Corrections.

### ***Podiatry Act Amendments***

Under prior law, “podiatry” was defined as the diagnosis and treatment of all illnesses of the human foot. Under the bill, podiatry means the diagnosis and medical and surgical treatment of all illnesses of the human foot, including the ankle and tendons which insert into the foot as well as the foot. The bill prohibits podiatrists from performing ankle surgery unless the podiatrist has completed a three-year post-doctoral surgical residency program in reconstructive rearfoot/ankle surgery and is either board-qualified (progressing to certification) or board-certified in reconstructive rearfoot/ankle surgery by a nationally recognized certifying organization acceptable to the Board. Surgical treatment of the ankle by a podiatrist is required to be performed only in a medical care facility.

The bill also requires the Board, within 90 days of the effective date of this bill, to create the Podiatry Interdisciplinary Advisory Committee. This five-member committee will advise and make recommendations to the Board on matters relating to the licensure of podiatrists to perform surgery on the ankle. The advisory committee members will be:

- One Board member, appointed by the Board, who serves as the non-voting chairperson;

- Two persons licensed to practice medicine and surgery specializing in orthopaedics, chosen by the Board from a list of four names submitted by the Kansas Medical Society; and
- Two podiatrists, at least one of whom has completed an accredited residency in foot and ankle surgery, chosen by the Board from a list of four names submitted by the Kansas Podiatric Medical Association.

Advisory committee members serve at the pleasure of the Board without compensation. Committee expenses are paid by the Board. The Advisory Committee provisions of the bill expire on July 1, 2018.

## JUDICIARY

### **Mistreatment of a Dependent Adult or Elder Person—Definitions, Penalties, Defense; Sureties and Appearance Bonds—Unlawful Sexual Relations, Own Recognizance Bonds, Felony Disqualification, Out-of-State Sureties; Kansas RICO Act—Culpability, Racketeering Activity Crimes; Attorney General—Appellate Costs; SB 256**

**SB 256** amends law related to mistreatment of a dependent adult or elder person, sureties and appearance bonds, the Kansas Racketeer Influenced and Corrupt Organization (RICO) Act, and costs of appellate representation by the Attorney General.

#### ***Mistreatment of a Dependent Adult or Elder Person***

The bill amends the statute governing the crime of mistreatment of a dependent adult by:

- Rewriting the means of committing the crime that involves taking unfair advantage of a dependent adult's resources so that the means involve the wrongful taking of personal property or financial resources of a dependent adult for the benefit of the defendant or another person by taking control, title, use, or management of personal property or financial resources through various prohibited techniques or influences or without adequate consideration, through a violation of the Kansas Power of Attorney Act, or through a violation of the Kansas Uniform Trust Code;
- Creating the crime "mistreatment of an elder person," which could be committed by any of the means by which mistreatment of a dependent adult may be committed, except for infliction of physical injury, unreasonable confinement, or unreasonable punishment;
- Defining "elder person," as a person 70 years of age or older;
- Establishing the same tiered penalties for mistreatment of an elder person as exist for mistreatment of a dependent adult, with the following exceptions with regard to taking the personal property or financial resources of an elder person:
  - Taking of property or resources valued at least \$5,000 but less than \$25,000 is a severity level 7, person felony;
  - Taking of property or resources valued less than \$5,000 is a class A person misdemeanor, unless the offender has been convicted of the same crime two or more times within the previous five years, in which case is a severity level 7, person felony (The comparable penalties for mistreatment of a dependent adult are a severity level 7, person felony for values of at least \$1,000 but less than \$25,000 and a class A misdemeanor for values less than \$1,000, or severity level 7, person felony if the same previous conviction provision is met.);
- Establishing an affirmative defense to prosecution for the taking of property or resources from a dependent adult or elder person that the property or resources were given as a gift consistent with a pattern of gift giving before the victim

became vulnerable, that the property or resources were conferred as a gift to the benefit of a person or class of persons and was reasonable under the circumstances, or that a court approved the transaction; and

- Defining “adequate consideration.”

### ***Sureties and Appearance Bonds***

The bill amends the crime of unlawful sexual relations by adding a provision which prohibits a surety or an employee of a surety from engaging in sexual relations with a person at least 16 years of age who is the subject of a surety or bail bond agreement with such surety when the offender knows the person is the subject of such surety or bail bond agreement. This provision will be a severity level 5, person felony.

The bill amends bail provisions for certain drug offenses that require at least \$50,000 cash or surety to allow any person arrested and charged for these offenses to be released upon the person’s own recognizance if the court determines, on the record, that the defendant is not likely to reoffend, the court imposes pretrial supervision, or the defendant agrees to participate in a licensed or certified drug treatment program. The bill amends similar bail provisions in criminal street gang and RICO statutes to allow release upon the person’s own recognizance if the court determines, on the record, that the defendant is not likely to reoffend, an appropriate intensive pretrial supervision program is available, and the defendant agrees to comply with the mandate of such pretrial supervision.

The bill prohibits a person convicted of any felony in the person’s lifetime from acting as a surety or as an agent of a surety. Formerly, only a person convicted of a person felony within the past ten years fell under this prohibition.

The bill requires an out-of-state surety or agent of a surety to contract with a Kansas surety or agent of a surety before attempting to apprehend a person in Kansas and be accompanied by the Kansas surety or agent during the apprehension.

The bill also updates agency references to reflect current agency authority and responsibilities.

### ***RICO***

The bill amends statutes in the Kansas RICO Act to specify the culpability requirement for a violation of the RICO Act is “recklessly.” A person covered by the RICO Act will not violate the Act itself through the collection of an unlawful debt if the person did not participate in the illegal activity creating the debt.

The bill also amends the RICO Act definitions statute to update the names of certain crimes listed under “racketeering activity” and to add the crime of commercial sexual exploitation of a child to this list.

### ***Attorney General Appellate Costs***

The bill amends the statute allowing the Attorney General to invoke the assistance of county or district attorneys on criminal appeals to allow the reasonable costs of representation by the Attorney General to be paid by the board of county commissioners from the county general fund, pursuant to an agreement with the Attorney General, changed from allowing only the payment of the costs of assistance provided by the county's county or district attorney. The Attorney General is allowed to publish a schedule of costs for services provided by the Attorney General, not to exceed the statutory rate of compensation for attorneys appointed to represent indigent persons (currently \$80 per hour). The Attorney General is allowed to enter into agreements with county or district attorneys for the payment of such costs, which could supersede the schedule of costs. The bill directs any moneys paid to the Attorney General under this section to the Criminal Appeals Cost Fund, created by the bill. The Attorney General is permitted to use this fund to represent the interests of the state in criminal appeals and post-conviction proceedings.

### **Grand Juries—Misdemeanors, Attorney General Prosecution, Amendment of Indictments; SB 310**

**SB 310** amends the statute governing the summoning of grand juries to allow grand juries summoned upon the petition of the Attorney General or a district or county attorney to consider any alleged misdemeanor that arises as part of the same criminal conduct or investigation underlying any alleged felony considered by the grand jury.

The bill also amends the statute governing grand jury indictment procedure to allow a grand jury impaneled through elector petition to request that the Attorney General prosecute the case arising from an indictment, if the grand jury is of the opinion that the prosecuting attorney would not diligently prosecute the case. The court must notify the Attorney General of the request, and the Attorney General may prosecute the case.

Finally, the bill amends the statute governing amendment of grand jury indictments to allow the court to amend an indictment as to the substance of the offense charged for the limited purpose of effectuating a change of plea pursuant to a plea agreement between the defendant and the prosecution. This provision applies to grand juries impaneled by order of district judges or through petition by a county or district attorney or the Attorney General. It does not apply to grand juries impaneled through elector petition.

### **Code of Civil Procedure—Raising Non-Economic Damage Caps, Amending Witness and Expert Witness Standards, Repealing Statutes Related to Collateral Source Benefits; SB 311**

**SB 311** amends the Code of Civil Procedure with regard to caps on non-economic damages, witness and expert witness testimony, and evidence of collateral source benefits.

The bill amends the limits to be applied for non-economic damages in personal injury actions as follows:

- \$250,000 for causes of action accruing from July 1, 1988, to July 1, 2014;
- \$300,000 for causes of action accruing on or after July 1, 2014, to July 1, 2018;
- \$325,000 for causes of action accruing on or after July 1, 2018, to July 1, 2022;  
and
- \$350,000 for causes of action accruing on or after July 1, 2022.

The rule of evidence governing opinion testimony is amended to clarify the opinion testimony that may be offered by a witness not testifying as an expert. The standard for admissibility of expert testimony is amended so that, where scientific, technical, or other specialized knowledge would help the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may offer opinion testimony if the testimony is based on sufficient facts or data, if the testimony is the product of reliable principles and methods, and if the witness has reliably applied the principles and methods to the facts of the case. The bill establishes a procedure by which, upon motion of a party, the court may hold a pretrial hearing to determine a witness' qualifications as an expert and whether the witness' testimony satisfies the requirements set forth above. The bill establishes that facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived or made known to the expert. If such facts or data are of a type reasonably relied upon by experts in the particular field in forming opinions or inferences, the facts or data do not need to be admissible into evidence for admission of the opinion or inference. Facts or data otherwise inadmissible may not be disclosed to the jury by the proponent unless the court determines the probative value outweighs any prejudicial effect.

Finally, the bill repeals statutes allowing evidence of collateral source benefits to be admissible in actions for personal injury or death and providing for a procedure for determination of net collateral source benefits and reduction of the judgment by such amount. [Note: the repealed statutes were declared unconstitutional and void by the Kansas Supreme Court in *Thompson v. KFB Ins. Co.*, 252 Kan. 1010, 1024 (1993).]

### **Successor Corporation Asbestos-Related Liability Fairness Act; SB 359**

**SB 359** enacts the Successor Corporation Asbestos-Related Liability Fairness Act, which provides that the cumulative successor asbestos-related liabilities of a successor corporation are limited to the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation.

“Successor” is defined to include a corporation that has assumed or incurred successor asbestos-related liabilities that became a successor before January 1, 1972, or is any of that successor corporation’s successors. “Asbestos claim,” “corporation,” “successor asbestos-related liabilities,” and “transferor” also are defined.

The successor corporation does not have responsibility for successor asbestos-related liabilities in excess of the limitation established by the bill. If the transferor has assumed or incurred successor asbestos-related liability in connection with a prior merger or consolidation with a prior transfer, the limitation of liability of a successor corporation is the fair market value of

the total assets of the prior transferor determined as of the time of the earlier merger or consolidation. The bill sets forth possible methods for establishing fair market value of the total gross assets. The fair market value of total gross assets at the time of the merger or consolidation increases annually as specified in the bill.

The bill provides these limitations apply to any successor corporation; however, the limitations do not apply to:

- Workers compensation benefits paid by or on behalf of an employer to an employee pursuant to Kansas law or a comparable law of another jurisdiction;
- Any claim against a corporation that does not constitute a successor asbestos-related liability;
- Any obligation under the federal National Labor Relations Act or under any collective bargaining agreement; or
- A successor that, after a merger or consolidation, continued in the business of mining asbestos or in the business of selling or distributing asbestos fibers or in the business of manufacturing, distributing, removing, or installing asbestos-containing products that were the same or substantially the same as those products previously manufactured, distributed, removed, or installed by the transferor.

The bill applies to all asbestos claims filed against a successor on or after July 1, 2014, and any pending asbestos claims against a successor in which trial has not commenced as of that date, except where retroactive application would be unconstitutional. Kansas courts are required to construe its provisions liberally with regard to successors.

### **District Magistrate Judges—Jurisdiction, Appeals, Procedure; Senate Sub. for HB 2065**

**Senate Sub. for HB 2065** expands the jurisdiction of district magistrate judges by allowing them to conduct felony first appearance hearings and have jurisdiction over uncontested actions for divorce, as well as over any civil action with the consent of the parties. The bill clarifies that district magistrate judges may hear misdemeanor arraignments. Finally, the bill amends various statutes to establish that appeals from district magistrate judges who are regularly admitted to practice law in Kansas shall be directly to the Court of Appeals, rather than to a district judge. Appeals from district magistrate judges who are not regularly admitted to practice law in Kansas will continue to be to a district judge, as under previous law. To facilitate the new appeals process, the bill directs that all actions or proceedings before a district magistrate judge regularly admitted to practice law in Kansas be on the record if such actions or proceedings would be on the record before a district judge.

### **Reinstatement Fees Designated for the Judicial Branch's Nonjudicial Salary Adjustment Fund; HB 2303**

**HB 2303** renames the Kansas Department of Health and Environment's (KDHE) Driving Under the Influence Equipment Fund the Driving Under the Influence Fund and requires KDHE to establish and maintain breath alcohol programs, using the money in the Fund for this

purpose. Additionally, the bill increases reinstatement fees for the first and subsequent occurrences of driving under the influence (DUI) violations. The reinstatement fees for test failure convictions are increased:

- From \$100 to \$200 after the first occurrence;
- From \$200 to \$400 after the second occurrence;
- From \$300 to \$600 after the third occurrence; and
- From \$400 to \$800 after the fourth or subsequent occurrence.

Reinstatement fees for test refusal convictions are increased:

- From \$400 to \$600 after the first occurrence;
- From \$600 to \$900 after the second occurrence;
- From \$800 to \$1,200 after the third occurrence; and
- From \$1,000 to \$1,500 after the fourth or subsequent occurrence.

Further, the bill amends how the total revenue generated from these fees is distributed. On and after July 1, 2013, through June 30, 2017, the bill:

- Decreases from 50.0 percent to 26.0 percent the amount going to the Department for Aging and Disability Services' (KDADS) Community Alcoholism and Intoxication Program Fund;
- Decreases from 20.0 percent to 12.0 percent the amount going to the Juvenile Justice Authority's (JJA) Juvenile Detention Facilities Fund;
- Decreases from 20.0 percent to 12.0 percent the amount going to the Kansas Bureau of Investigation's (KBI) Forensic Laboratory and Materials Fee Fund;
- Increases from 10.0 percent to 17.0 percent the amount going to KDHE's Driving Under the Influence Fund; and
- Designates 33.0 percent of the total amount to go to the Judicial Branch's Nonjudicial Salary Adjustment Fund, which currently receives no portion of the total revenue generated from reinstatement fees.

After July 1, 2017, the fees will be distributed as follows:

- 35.0 percent to the KDADS' Community Alcoholism and Intoxication Program Fund;

**Reinstatement Fees Designated for the Judicial Branch's Nonjudicial Salary Adjustment Fund; HB 2303**

- 20.0 percent to JJA's Juvenile Detention Facilities Fund;
- 20.0 percent to the KBI's Forensic Laboratory and Materials Fee Fund; and
- 25.0 percent to KDHE's Driving Under the Influence Fund.

Finally, the bill requires each of these funds to earn interest based on each fund's average daily balance for the preceding month and the net earnings rate of the Pooled Money Investment Portfolio for the preceding month.

**Judicial Branch—FY 2015 Appropriation, Docket Fee Revenue, Budgeting, Chief Judge Election, Judicial Vacancies, Longevity Payments; Senate Sub. for HB 2338**

**Senate Sub. for HB 2338** appropriates \$2.0 million in additional State General funds for the Judicial Branch in FY 2015, increases docket fee revenue to the Judicial Branch, and modifies statutes governing Judicial Branch operations concerning budgeting, the election of chief judges, and allowing for a delay in filling judicial vacancies for up to 120 days. The bill also deletes the statutory requirement for longevity payments to Judicial Branch non-judicial staff. The provisions of the bill are non-severable.

***Appropriations***

The bill appropriates an additional \$2.0 million, all from the State General Fund, for the Judicial Branch. The additional appropriation provides a State General Fund budget of \$97,783,948 for FY 2015.

The bill also designates that docket fees previously deposited in various special revenue funds shall be deposited in the Judicial Branch Docket Fee Fund from FY 2016 forward, making permanent a budget proviso effective for FY 2014 and FY 2015.

***Docket Fees***

The bill creates statutory filing fees for appeals to the Court of Appeals or the Supreme Court in the amount of \$145 and grants the Supreme Court the authority to impose an additional charge of up to \$10 from July 1, 2014, through July 1, 2015, to fund the costs of non-judicial personnel. (Appellate court filing fees currently are set at \$125 by Supreme Court rule.) A motion for summary judgment filing fee of \$195 is created, as well as a garnishment request fee of \$7.50. The Supreme Court is authorized to impose an additional charge of up to \$12.50 for garnishment requests to fund the costs of non-judicial personnel. The summary judgment filing fee does not apply in limited actions cases under Chapter 61, and the State of Kansas and its municipalities are exempt from payment of this fee, as well as the appellate filing fees and garnishment request fee. Each of these new fees goes into effect on July 1, 2014, and for each a poverty affidavit is allowed in lieu of the fee.

The bill increases existing docket fees as follows:

- For a petition for expungement of conviction or related arrest records, from \$100 to \$176 for the period July 1, 2013, through July 1, 2015;

- For a petition for expungement of an arrest record, from \$100 to \$176;
- In a traffic, cigarette or tobacco, or fish and game violation case, from \$74 to \$86 beginning July 1, 2014;
- For a petition for expungement of juvenile records or files, from \$100 to \$176 for the period July 1, 2013, through July 1, 2015;
- For the filing of an out-of-state probate decree, from \$108.50 to \$173, beginning July 1, 2014; and
- For cases under KSA Chapter 60, from \$154 to \$173, beginning July 1, 2014.

The bill also extends the time for the Supreme Court to impose an additional fee in juvenile and conviction expungement cases and Chapter 60 cases to fund non-judicial personnel to July 1, 2015.

The bill reduces the docket fees in small claims cases from \$37 to \$35 (claims under \$500) and from \$57 to \$55 (claims over \$500) beginning July 1, 2014.

The bill creates the Electronic Filing and Centralized Case Management Fund and directs that expenditures from the fund be used to create, implement, and manage an electronic filing and centralized case management system for the state court system.

For FYs 2015, 2016, and 2017, the bill directs the first \$3.1 million of the balance of docket fees received by the state treasurer from clerks of the district court to the fund created by the bill. Beginning in FY 2018, the first \$1.0 million of the docket fees received shall be directed to the new fund.

The bill updates agency references to reflect current agency authority and responsibilities.

### ***Judicial Branch Budgeting Procedure***

The bill enacts new law to allow, for the fiscal year ending June 30, 2016, and each subsequent fiscal year, the chief judge in a judicial district to elect to be responsible for preparing and submitting a budget for the judicial district to the Chief Justice of the Kansas Supreme Court. A chief judge electing this responsibility is required to notify the Chief Justice of this decision by August 1 of the preceding fiscal year, and the chief judge is required to submit, on or before June 30 of each fiscal year, the budget for the ensuing fiscal year based upon the dollar amount allocated to the district by the Chief Justice for such fiscal year.

Subject to appropriations, the Chief Justice shall have the final authority over the annual amount allocated to each judicial district budget. After the Legislature makes Judicial Branch appropriations each year, the Chief Justice will determine the budgeted amount for each judicial district and notify each chief judge of that amount. Once the amount of each judicial district budget is established by the Chief Justice, the chief judge of each district shall have control of the expenditures under the budget, except for salaries mandated by law, and all lawful claims by a chief judge within the limits of the district budget will be approved by the judicial administrator.

The chief judge of each district shall determine the compensation of personnel in the district and shall have the authority to hire, promote, suspend, demote, and dismiss personnel as necessary to carry out the functions and duties of the district.

If it appears the resources of any Judicial Branch special revenue fund are likely to be insufficient to cover the appropriations made against such fund for the fiscal year, the Chief Justice is responsible for determining any allotment system to assure expenditures will not exceed available resources of any such fund for the fiscal year, and chief judges who have elected the responsibility for the district budget will be required to follow this allotment system.

The bill removes from the Supreme Court's judicial personnel classification system any nonjudicial personnel who will be subject to the authority of a chief judge who has elected responsibility for the district budget, and the bill states that the classification system is not to infringe upon the authority of a chief judge who has elected budget responsibility.

The bill clarifies that a departmental justice does not have the authority to make or change any budget decisions made by the chief judge of a district court.

The bill amends statutes relating to judicial departments, district court rules, district court clerks, district court nonjudicial personnel, court services officers, county budgets for court operations, court reporters, and state employee compensation philosophy to be consistent with the new budget process and authority established by the bill.

Certain provisions (related to the judicial personnel classification system and compensation, probation and parole officer, and district court employees) tied to specific dates in 1978 and 1979 are removed, and references to certain agencies and boards are updated to reflect reorganization.

### ***Chief Judge Elections***

The bill establishes that the district court judges in each judicial district shall elect a district judge to serve as chief judge and shall determine the procedure for such election. Similarly, the judges of the Court of Appeals shall elect a judge of the Court of Appeals to serve as chief judge. The Court of Appeals shall determine the procedure for such election. The bill provides that each chief judge designated by the Supreme Court on July 1, 2014, shall be allowed to serve as chief judge through January 1, 2016.

### ***Judicial Vacancies***

The bill amends the law concerning the filling of judicial vacancies. The bill requires the Chief Justice of the Supreme Court to provide notice of a vacancy in the office of district court judge or district magistrate court judge to the chairperson of the district judicial nominating commission in such district not later than 120 days following the date the vacancy occurs or will occur. Once the nominating commission has submitted the required number of nominations to the Governor, the bill increases from 30 to 60 the number of days within which the Governor must make an appointment. Similarly, the bill increases from 30 to 60 the number of days within which the Chief Justice must make an appointment if the Governor fails to make an appointment within the allotted time.

In judicial districts where judges are elected, the bill requires the Clerk of the Supreme Court to provide notice of a vacancy in the office of district court judge to the Governor not later than 120 days following the date the vacancy occurs or will occur. Further, the bill increases from 60 to 90 the number of days within which the Governor must make an appointment following receipt of such notice.

**Search and Arrest Warrants—Disclosure of Probable Cause Affidavits or Sworn Testimony; Speedy Trial Deadline; Criminal Appeals—Stay of Appellate Mandate; Technical Corrections—Mistreatment of a Dependent Adult, Mistreatment of an Elder Person, Kansas RICO Act; Senate Sub. for HB 2389**

**Senate Sub. for HB 2389** amends law related to disclosure of probable cause affidavits or sworn testimony supporting search or arrest warrants, as well as law related to the statutory speedy trial deadline and the automatic stay of a mandate in certain appeals. Finally, the bill makes technical corrections to language previously passed in 2014 legislation.

***Probable Cause Affidavit and Sworn Testimony Disclosure***

The bill amends the law concerning affidavits and sworn testimony used in support of the probable cause requirement for warrants. Specifically, the bill strikes language that allows a magistrate to issue an arrest warrant or summons based on “other evidence,” and replaces it with “sworn testimony.” Additionally, for a warrant or summons executed on or after July 1, 2014, probable cause affidavits or sworn testimony will not be open to the public until the warrant or summons has been executed.

Similarly, the bill amends the law concerning probable cause affidavits and sworn testimony used in support of search warrants and search warrants for tracking devices. For search warrants executed on or after July 1, 2014, probable cause affidavits or sworn testimony will not be open to the public until the warrant or summons has been executed.

Once executed, such affidavits or sworn testimony are to be made available to any person, when requested, in accordance with the requirements outlined in the bill. (The affidavits and sworn testimony will continue to be made available to the defendant or the defendant’s counsel upon request, for such disposition as either may desire, as under previous law.) The bill allows any person to file a request with the clerk of the court for disclosure of affidavits or sworn testimony. Within five business days of receiving notice of such request, the defendant, defendant’s counsel, and prosecutor may submit a request to the magistrate under seal that the court either redact specified provisions of the affidavit or sworn testimony or seal the documents. The request shall include the reasons for such proposed redactions or seal. The magistrate shall review the request and shall make appropriate redactions or seal the affidavits or sworn testimony, as necessary to prevent public disclosure of information that could result in any of the following:

- Jeopardizing the safety or well being of a victim, witness, confidential source, or undercover agent, or cause the destruction of evidence;
- Revealing information obtained from a court-ordered wiretap or search warrant for a tracking device that has not expired;

- Interfering with any prospective law enforcement action, criminal investigation, or prosecution;
- Revealing the identity of any confidential source or undercover agent;
- Revealing confidential investigative techniques or procedures not known to the general public;
- Endangering the life or physical safety of any person;
- Revealing the name, address, or telephone number or any other information that specifically and individually identifies the victim of a sex offense;
- Revealing the name of any minor; or
- Revealing any date of birth, business or personal telephone number, driver's license number, nondriver's identification number, Social Security number, employee identification number, taxpayer identification number, vehicle identification number, or financial account information.

Within five business days of receiving the request to redact or seal from the defendant, the defendant's counsel, or the prosecutor or within ten business days after receiving notice of a request for disclosure, whichever is earlier, the magistrate shall either order disclosure of the affidavits or sworn testimony with appropriate redactions, if any, or order the affidavits or sworn testimony sealed and not subject to public disclosure.

### ***Statutory Speedy Trial Deadline***

The bill amends the criminal code to lengthen the statutory speedy trial deadline for a defendant held in jail from 90 days to 150 days after arraignment.

### ***Stay of Appellate Mandate***

The bill amends the statutes governing criminal appeals to provide that the issuance of the mandate from the appellate court in criminal and related appeals shall be automatically stayed when a party files notice that it intends to petition the U.S. Supreme Court for a writ of *certiorari* and the time to file such petition has not expired. Any mandate issued before a party files such notice shall be withdrawn and stayed. The stay shall be lifted if the petition for writ of *certiorari* is denied, upon the Supreme Court's final order after granting such petition, or once the time has expired for filing such petition and no petition has been filed.

### ***Technical Corrections***

The bill makes technical corrections to statutory references contained in SB 256, previously passed by the 2014 Legislature, with regard to the crimes of mistreatment of a

dependent adult and mistreatment of an elder person. The bill also makes a technical correction to a culpability amendment to the Kansas RICO Act contained in SB 256.

### **Limited Liability Companies; HB 2398**

**HB 2398** makes numerous changes to the Kansas Revised Limited Liability Act; however, many of these amendments do not substantively alter the law. The bill gives a limited liability company (LLC) the power and authority to grant, hold, or exercise a power of attorney, including a revocable power of attorney, unless otherwise provided in the operating agreement. The bill provides more specific information about irrevocable powers of attorney with respect to the organization, internal affairs, and termination of an LLC.

Pursuant to the bill, meetings of members and managers can be held by means of a conference call or other means of communication that allows all persons participating to hear each other. Participation in such a meeting constitutes in-person presence at the meeting. Further, the bill allows proxy to be granted by electronic transmission.

If not otherwise provided for in the operating agreement, the bill requires a unanimous vote of the members to amend the operating agreement. This requirement does not apply to LLCs whose original articles of organization were filed before July 1, 2014.

The bill strikes language requiring a manager to be chosen “by the members” to read that managers will be chosen as provided in the operating agreement. The bill also strikes language governing members’ ability to enter into contracts on behalf of an LLC.

The bill provides that a liquidating trustee is fully protected in relying in good faith upon the records of the LLC and such information, opinions, reports or statements presented by a person the liquidating trustee reasonably believes are within such other person’s professional or expert competence and who has been selected with reasonable care by or on behalf of the LLC. This protection already existed for members and managers of an LLC.

The bill prohibits a member from resigning from an LLC prior to the dissolution and winding up of the LLC and provides that, unless otherwise provided in an operating agreement, within a reasonable time after resignation the member is entitled to receive the fair value of such member’s LLC interest as of the date of resignation. Previous law allowed resignation and stated members were not entitled to the fair value upon resignation. These amendments do not apply to LLCs whose original articles of organization were filed before July 1, 2014.

The bill strikes language that gives the assignee of a member’s LLC interest the right to participate in the management of the business and affairs of the LLC as a member when the assignor is the only member of the LLC at the time of the assignment. The bill also amends the rights of a judgment creditor of a member or of a member’s assignee.

Concerning dissolution and winding up of an LLC, the bill increases from 1/2 to 2/3 the then-current percentage or other interest in the profits of the LLC members must own for a vote to dissolve an LLC. Further, the bill expands on the provision that dissolves an LLC if at any time there are no members. Upon dissolution, the bill requires the LLC to make such provision as will be reasonably likely to provide compensation for any claim against the LLC that is the subject of a pending action, suit, or proceeding to which the LLC is a party; and for claims that

have not been made known to the LLC or that have not arisen but that, based on facts known to the LLC, are likely to arise or to become known to the LLC within ten years of dissolution. Additionally, a member who receives a distribution in violation of the law governing distribution of assets upon winding up of an LLC is liable to the LLC for the amount of the distribution for up to three years after the date of distribution.

The bill allows for the expansion or elimination of a member's, manager's, or other person's duties in the operating agreement, except that the bill prohibits the elimination of the implied contractual covenant of good faith and fair dealing. Pursuant to the bill, a member, manager, or other person is not liable to an LLC or another member, manager, or another person who is a party to or is otherwise bound by an operating agreement for breach of a fiduciary duty for the member's, manager's, or other person's good faith reliance on the provision of the operating agreement. Similarly, an operating agreement can provide for the elimination of any and all liabilities for breach of contract and breach of duties, including fiduciary duties, except that the bill prohibits the limitation or elimination of liability for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing.

The bill also includes new sections that allow the district court to appoint one or more trustees or receivers to wind up the affairs of an LLC after dissolution, allow members of an LLC that has been dissolved other than by judicial decree to revoke the dissolution and continue the business by unanimous vote, and allow retroactive reinstatement of LLCs that have had their articles of organization or authority to do business canceled or forfeited for failure to file annual reports or failure to be current in their appointment of resident agents.

### **Spendthrift Trusts; HB 2444**

**HB 2444** amends the law concerning spendthrift provisions of a trust to more closely mirror uniform law provisions. Previously, the law stated that regardless of whether a trust contains a spendthrift provision, a creditor of a beneficiary cannot compel a distribution that is subject to the trustee's discretion, even if the discretion is expressed in the form of a standard for distribution or the trustee has abused discretion. The bill provides that a creditor may not compel a distribution even if both the standard of distribution is expressed in the form of a standard and the trustee has abused the trustee's discretion.

Additionally, the bill creates an exception to this prohibition for instances in which a beneficiary is serving as sole trustee. If a beneficiary is or was serving as sole trustee and the standard of distribution with respect to such beneficiary is not in the form of an ascertainable standard relating to such beneficiary's health, education, support, or maintenance, the bill allows a creditor to:

- Compel any distribution the beneficiary, while serving as sole trustee, either is presently authorized to make to such beneficiary or was authorized to make to such beneficiary and did not make; and
- Attach such beneficiary's beneficial interest in the trust with respect to any present or future discretionary distributions to such beneficiary, in the absence of a spendthrift provision precluding such attachment.

### **Criminal Procedure—Discovery Access and Disclosure Requirements; HB 2445**

**HB 2445** amends the code of criminal procedure to clarify that the defense, rather than the defendant individually, is entitled to access discovery materials.

Additionally, the bill amends the defense's expert disclosure requirements to remove the requirement that the bases and reasons for the expert's opinions be included and to make such disclosures due at a reasonable time prior to trial by agreement of the parties or by order of the court (instead of 30 days before trial). The bill imposes the same disclosure requirements on the prosecution for any expert witness' direct examination.

### **Court Trustees Operation Fund, Nonjudicial Salary Adjustment Fund Dates, Time Limits for Issuing Opinions; Senate Sub. for HB 2446**

**Senate Sub. for HB 2446** allows the chief judge of a judicial district where the office of court trustee has ceased to exist to authorize expenditures from the Court Trustee Operations Fund for district court operations.

The bill also revises dates in portions of the law amended early in the 2014 Legislative Session by HB 2303, which increased DUI-related reinstatement fees and allocated a portion of funds generated by those fees to the Judicial Branch's Nonjudicial Salary Adjustment Fund. Specifically, the bill changes the effective date of the provisions enacted in HB 2303 from 2013 to 2014 and a four-year sunset provision from 2017 to 2018. Additionally, the dates in a provision limiting the salaries of nonjudicial personnel based on approved salary adjustments are changed from FY 2009 to FY 2015 and from FY 2010 to FY 2016.

Finally, the bill establishes time limits for decisions by district courts, the Kansas Court of Appeals, and the Kansas Supreme Court. The bill requires a district court to issue a decision on a motion or non-jury trial within 120 days after the matter is submitted for decision. If a decision is not issued within this time, within 130 days of submission for decision, all counsel must file a joint request for the decision to be entered without further delay, with a copy of this request to be sent to the chief judge of the judicial district. Within 30 days of this request, the district court must enter a decision or provide a date by which a decision will be entered, with a copy of the notice of such date sent to the chief judge of the judicial district. If the district court fails to enter a decision or provide a date for decision within 30 days, all counsel must file a joint request with the chief judge to establish an intended decision date, and the chief judge will then establish such a date after consultation with the judge to whom the matter is assigned.

The bill requires the Court of Appeals and the Supreme Court to issue a decision on a motion or an appeal within 180 days after the matter is submitted for decision. If a decision is not issued within this time, within 190 days of submission for decision, all counsel must file a joint request for the decision to be entered without further delay, with a copy of the request to be sent to the chief judge (in Court of Appeals cases) or the chief justice (in Supreme Court cases). The same time line and process for issuing a decision or setting a decision date as established for district court cases will be followed, with the chief judge or chief justice ultimately setting a final intended decision date, if necessary.

Any writing required by the bill will be made available to the public. The bill specifies when a motion, non-jury trial, or appeal is deemed "submitted for decision" for purposes of the time limits.

### **Duties Owed to Trespassers; HB 2447**

**HB 2447** provides that a possessor of any fee, reversionary, or easement interest in real property, including an owner, lessee, or other lawful occupant, owes a trespasser only the duty of care that existed at common law or in statute on July 1, 2014. The bill states the section does not affect any immunities from or defenses to civil liability established by another Kansas statute or available at common law to which a possessor of real property may be entitled.

### **Terrorism—Civil Actions, Related Crimes, Civil Forfeiture; HB 2463**

**HB 2463** establishes a specific civil cause of action for a person injured as a result of conduct that would constitute the crime of terrorism or the crime of furtherance of terrorism or illegal use of weapons of mass destruction, against the person who engaged in such conduct. A prevailing plaintiff is entitled to recover the greater of \$10,000 or three times the actual damages the plaintiff sustained, as well as costs and reasonable attorney's fees. The statute of limitations for the cause of action is five years after the later of the date of discovery of the conduct or the conclusion of a related criminal case. The victim may request the Attorney General to pursue such a case on the victim's behalf, with damages to go to the victim and reasonable attorney's fees and costs to go to the Attorney General. The State shall be subrogated to a plaintiff's rights if the plaintiff has received compensation from the Crime Victims Compensation Board.

The bill amends the statute defining the crime of furtherance of terrorism or illegal use of weapons of mass destruction to include raising, soliciting, collecting, or providing material support or resources with the intent that they will be used to plan, prepare, carry out, or aid in the crime of terrorism or the crime of illegal use of weapons of mass destruction, the hindering of the prosecution of these crimes, or the concealment of or escape from any of these crimes. The bill defines "hindering of the prosecution of terrorism."

The crimes of terrorism and illegal use of weapons of mass destruction are added to the civil forfeiture statute.

(Note: The bill appears to add certain sex offenses to the civil forfeiture statute, but these provisions were already in law and the apparent amendments reconcile conflicting versions of the statute.)

### **Venue—Crimes Committed With An Electronic Device; HB 2478**

**HB 2478** allows a prosecution for any crime committed with an electronic device to be brought in the county where:

- Any requisite act to the commission of the crime occurred; or
- The victim resides; or
- The victim was present at the time of the crime; or
- Property affected by the crime was obtained or was attempted to be obtained.

These venues are available in addition to any venue available under other provisions of law.

The bill defines “crime committed with an electronic device” and specifies that criminal use of a financial card, unlawful acts concerning computers, identity theft and identity fraud, and electronic solicitation qualify as such a crime.

### **Driving Under the Influence—Removing Sunset Date for Ignition Interlock for First Offense; Failure to Comply With a Traffic Citation—Restricted License; HB 2479**

**HB 2479** revises administrative restrictions applicable to driving under the influence (DUI) and related offenses to remove the July 1, 2015, sunset date for a provision requiring the use of a breath alcohol ignition interlock device after the first test failure or conviction.

The bill also amends the statute governing failure to comply with a traffic citation to allow an individual whose driver’s license expires while that license has been suspended for failure to pay fines for traffic citations to apply for a restricted license. The bill requires the applicant to pay a \$25 application fee and to meet the following conditions:

- The suspended expired license was issued by the Kansas Division of Vehicles;
- The suspension must have resulted from a failure to comply with a traffic citation;
- The traffic citation was issued in Kansas; and
- The driver has not previously had a suspension stayed due to being convicted of driving with a suspended license.

(Note: The bill also appears to extend until July 1, 2015, the authorization for the Supreme Court to impose an additional charge of up to \$22 to fund the costs of non-judicial personnel whenever a district or municipal court assesses a reinstatement fee for failure to comply with a traffic citation. This provision was passed in 2013 HB 2204 and is included here for conflict cleanup purposes.)

### **Lawyer Appearances in Small Claims Court to Dismiss Tort Claims Actions; HB 2491**

**HB 2491** provides that when a small claims action falls within the scope of the Tort Claims Act, a lawyer may appear in such action on behalf of any governmental entity, officer, or employee for the sole purpose of filing, briefing, and arguing a motion to dismiss for lack of jurisdiction.

### **Human Trafficking—Reporting Requirements, Diversion, Previous Convictions, Staff Secure Facilities; HB 2501**

**HB 2501** amends law related to human trafficking.

The bill amends municipal court reporting requirements to add the crimes of buying sexual relations and selling sexual relations to the list of cases required to be reported (including

electronic reporting after July 1, 2014) to the Kansas Bureau of Investigation (KBI) Central Repository.

For diversion agreements in municipal or district proceedings involving the crime of buying sexual relations, the bill requires that such agreements include the payment of the fine imposed for a conviction of this crime. The bill allows any such agreement to include a requirement that the defendant enter into and complete a suitable educational or treatment program regarding commercial sexual exploitation. A person is limited to one diversion agreement for this crime within the person's lifetime.

The bill specifies that, in determining whether a conviction of the crime of buying sexual relations is a first, second, or subsequent conviction, previous convictions under the statute or a violation of an ordinance prohibiting the same conduct shall be counted, as well as any diversion agreement.

The bill directs the KBI to adopt rules and regulations by July 1, 2014, requiring district courts to electronically report filings and dispositions in cases involving the crimes of human trafficking, aggravated human trafficking, selling sexual relations, promoting the sale of sexual relations, buying sexual relations, or commercial sexual exploitation of a child to the KBI Central Repository.

The bill eliminates specific requirements related to law enforcement observation of staff secure facility entrances and exits.

#### **Court Costs—Forensic Audio and Video; Garden City Police Department Computer, Audio, and Video Forensics Laboratory; HB 2566**

**HB 2566** adds forensic audio and video examination services to the list of services for which a \$400 court cost may be imposed on persons convicted, adjudicated, or diverted of a misdemeanor, felony, or driving under the influence violation. The bill permits the court costs collected for such services to be deposited into the designated fund of the entity providing such services.

The bill also adds the Garden City Police Department Computer, Audio, and Video Forensics Laboratory to the list of entities whose services may lead the convicted person to incur the court cost. The bill permits such fee to be deposited in the Garden City general fund.

#### **Kansas Family Law Code; HB 2568**

**HB 2568** amends the Kansas Family Law Code. In parentage proceedings, the bill provides that child support will be determined pursuant to the Kansas Child Support Guidelines (the Guidelines). The court can consider any affirmative defenses pled and proved in making such an award. For any period occurring five years or less before or after commencement of the action, the bill creates a rebuttable presumption that the Guidelines reflect the actual expenditures made on the child's behalf during that period. For any period occurring more than five years before commencement of the action, the person seeking the award has the burden of proving that the total amount requested for that period does not exceed expenditures actually made on the child's behalf during that period.

Additionally, in parentage proceedings, the bill allows the court to award costs and attorney fees to either party as justice and equity may require; and, unless the attorney represents a public agency in an action, the court could order the amount be paid directly to the attorney, who may enforce the order in the attorney's name in the same case. Further, the bill strikes language prohibiting fees for representation of a petitioner by the county or district attorney.

After the filing of a petition for divorce, annulment, or separate maintenance and during the pendency of the action until the entry of final judgment, the bill allows the judge assigned to hear the action to modify and vacate certain orders, including temporary custody orders, orders restraining the parties from disposing of property, and orders requiring mediation. Prior to passage of the bill, judges already had authority to make and enforce these orders.

In child support proceedings, the bill requires a person who files a motion to request or modify a child support order to include a completed domestic relations affidavit and proposed child support worksheet. In making a child support award, the bill strikes language requiring the court to consider "all relevant factors, without regard to marital misconduct, including the financial resources and needs of both the parents, the financial resources and needs of the child, and the physical and emotional condition of the child." Instead, the bill requires the court to follow the Guidelines, which are created by the Supreme Court based on "all relevant factors, including, but not limited to: the needs of the child; the standards of living and circumstances of the parents; the relative financial means of the parents; the need and capacity of the child for education; the age of the child; the financial resources and earning ability of the child; the responsibility of the parents for the support of others; and the value of services contributed by both parents."

The bill allows the court to make a modification of child support retroactive to the first day of the month following the filing of the motion to modify, replacing law that allows the court to make the modification retroactive to a date at least one month after the date the motion was filed. Any retroactive award will not become a lien on real property until the date of the order.

In a proceeding to determine child custody, residency, and parenting time, the bill modifies the factors courts must consider. The bill strikes language requiring the court to consider "the length of time the child has been under the actual care and control of any person other than a parent" and adds the following factors: the age of the child; the emotional and physical needs of the child; the ability of the parties to communicate, cooperate, and manage parental duties; the school activity schedule of the child; the parties' work schedule; the location of the parties' residences and places of employment; and the location of the child's school. Further the bill clarifies the court will consider the desires only of a child "of sufficient age and maturity" and must consider evidence of both physical and emotional spousal abuse.

## LAW ENFORCEMENT

### **Kansas Criminal Justice Information System Committee; SB 402**

**SB 402** amends statutes related to the Kansas Criminal Justice Information System Committee (KCJISC).

The bill removes the Commissioner of the Kansas Juvenile Justice Authority from the committee membership to reflect the reorganization of the Authority into the Kansas Department of Corrections. The bill also removes from the membership an administrator or director of a public 9-1-1 communications center and adds to the membership a representative from the Kansas Association of Public Safety Communications Officials.

The bill replaces a provision making the Secretary of Administration the chairperson of KCJISC with a provision establishing the election of a chairperson by the committee. The chairperson shall serve a one-year term. The Secretary of Administration serves as co-chairperson and may vote only in the case of a tie.

The bill clarifies language related to the unified electronic information system, including a provision for funding through the Criminal Justice Information System Line Fund and the requirements a county must meet to receive a connection.

The bill authorizes, within appropriations limits, the appointment of a director by KCJISC, who shall receive an annual salary fixed by the committee.

Finally, the bill makes several technical or clarifying amendments involving references to KCJISC and its authority and operations.

### **Establishment of Blue Alert System; HCR 5029**

**HCR 5029** declares that the Kansas Legislature urges the Kansas Bureau of Investigation to establish a Blue Alert system. A Blue Alert would be issued after four criteria are met:

- A law enforcement officer is killed or seriously injured;
- An investigating law enforcement agency determines that the offender poses a serious risk or threat to the public or law enforcement personnel;
- A description of the offender's vehicle, vehicle tag, or partial tag is available to broadcast to the public; and
- An investigating law enforcement agency of jurisdiction recommends activation of the Blue Alert.

The resolution notes Kansas already has in place similar alert systems, including the Amber Alert for abducted children and the Silver Alert for missing senior citizens. Additionally, 18 states have a Blue Alert system in place, while other states and the federal government are considering the establishment of a Blue Alert system.

## LICENSES, PERMITS, AND REGISTRATIONS

### Board of Cosmetology; Senate Sub. for HB 2154

**Senate Sub. for HB 2154** amends several statutes governing licensees of the Kansas Board of Cosmetology (Board). Among the amendments, the bill establishes a senior status license and a related licensure fee, changes the licensing renewal period for salons and clinics, and modifies an education requirement for certain out-of-state licensure applicants. The bill also creates apprentice licenses and temporary permits for the practice of cosmetic tattooing, tattooing, or body piercing, and changes the license expiration period for body art practitioners from one year to two years. Additionally, the bill makes technical amendments.

#### ***Licensees of the Board—Senior Status License***

The bill establishes a senior status license, applicant criterion, and a one-time licensure fee of \$30. The bill also specifies that senior status licensees will not be entitled to practice cosmetology.

Applicants for licensure are required to:

- Hold a license issued by the Board for at least 40 years and be 70 years of age or older;
- Not be regularly engaged in cosmetology practice in the state; and
- Pay the one-time senior status license fee.

#### ***Facility License Renewal; Education Requirements, Out-of-State Applicants***

The bill also amends the licensing renewal period for salons and clinics licensed by the Board. Under previous law, all salon and clinic licenses expired on June 30, with renewal applications and renewal fees due to the Board before July 1 of each year.

The bill changes the facility license expiration date from June 30 to one year from the last day of the month of its issuance. The renewal application and fee are due to the Board prior to the expiration date of the license. On or after July 1, 2014, the Board will prorate salon and clinic renewal application fees to reflect an expiration date one year from the last day of the month of the initial issuance of the license.

The bill requires payment of the annual renewal fee in addition to the delinquent renewal fee if an applicant seeks renewal within 60 days after the date of expiration of the last license. Previous law required only the delinquent renewal fee in this instance.

The bill changes the requirements for out-of-state applicants to obtain a cosmetologist, esthetician, or electrologist license from the Board. The bill eliminates the high school graduation or equivalent requirement if the applicant has held a current license in another state or jurisdiction in the area of practice in which the applicant seeks a license for not less than ten years prior to the date of application.

### ***Apprentice Licenses and Temporary Permits***

The bill also creates apprentice licenses and temporary permits for the practice of cosmetic tattooing, tattooing, or body piercing regulated by the Board and changes the license period for body art practitioners from one year to two years.

The bill requires an applicant for apprentice licensure to pay a non-refundable fee, submit an application to the Board, and meet the following requirements:

- Be no less than 18 years of age;
- Have a high school diploma or equivalent education; and
- Will be studying under a Board-approved trainer.

The bill provides for issuance of a temporary permit for the practice of cosmetic tattooing, tattooing, or body piercing to any applicant possessing the necessary qualifications to take an examination, as determined by the Board, upon application and payment of a non-refundable fee. The temporary permit remains valid until the next regular examination conducted by the Board.

Under the bill, licenses issued for the practice of cosmetic tattooing, tattooing, or body piercing, excluding temporary licenses, expires two years after the date of issuance. Previous law provided for license expiration one year after the date of issuance.

### **Fingerprinting New Real Estate Appraisal Licensees; HB 2580**

**HB 2580** authorizes the Kansas Real Estate Appraisal Board to require fingerprinting of certain individuals seeking licenses as mandated by federal rules for licensing all new appraisers. Specifically, the Board, in order to perform state and national criminal history records checks, may require individuals to be fingerprinted, including:

- Any individual seeking an original license or certification, licensure by reciprocity or endorsement, or renewal of a license or certification; or
- A currently licensed or certified individual, if necessary, to investigate a complaint, or if required by the Appraisal Subcommittee.

Local and state law enforcement officers and agencies may assist the Board by taking and processing fingerprints of applicants and by releasing records of adult convictions to the Board. Local law enforcement agencies may charge a fee as reimbursement for expenses incurred in taking and processing fingerprints.

The bill also amends law requiring that a state certified or licensed appraiser must comply with the Uniform Standards of Professional Appraisal Practice, adding reference to the 2014-2015 edition, or with such standards in later versions, as established in rules and regulations by the Board.

## LOCAL GOVERNMENT

### State Use Law; SB 63

**SB 63** allows municipalities, as defined in the Kansas Tort Claims Act (KSA 2013 Supp. 75-6102) to include counties, cities, townships, and other taxing subdivisions of the state, to purchase products and services on the list certified by the Director of Purchases for qualified vendors. The bill grants the State Use Law Committee the power to elect its chairperson and removes the Governor's power to designate one of the private-sector business members as chairperson. The bill also extends the State Use Law Committee's sunset date by five years, from July 1, 2014, to July 1, 2019.

### Investment of Public Moneys—Federal Agency Securities; HB 2312

**HB 2312** amends a statute governing the investment of public moneys by local units of government to add federal agency securities, excluding mortgage-backed securities, to the list of authorized investment options.

Under continuing law, local units of governments are permitted to invest idle funds, when eligible financial institutions cannot or will not accept the funds at a rate equal to or greater than the investment rate, in any of the following investment options: U.S. Treasury bills or notes with maturities that do not exceed two years; the Municipal Investment Pool Fund; direct investments authorized for cities, counties, and school districts; multiple municipal client investment pools managed by trust departments of banks; and municipal bonds or other obligations issued by municipalities. The bill amends the provision authorizing investment in U.S. Treasury bills or notes to specify federal agency securities, excepting mortgage-backed securities, with maturities that do not exceed two years in this list of permissible investment options.

### Detachment of Fire District Territory in Johnson County; HB 2419

**HB 2419** amends statutes regarding detachment of fire district territory in Johnson County when a city annexes into that territory.

The existing requirement for the governing bodies of the city and fire district to negotiate an agreement providing for the transfer of land to the city, with final approval by the board of county commissioners, would remain. However, the bill eliminates both the time limit for reaching an agreement and the petition, publication, and hearing process for achieving resolution if the city and the fire district cannot reach agreement. In addition, the bill allows, rather than requires, that negotiations include the transfer of other fire district property (such as fire stations, trucks, reserve funds, and equipment) with compensation for such property.

The bill also deletes statutory provisions that exempt the City of Overland Park from fire district detachment procedures applicable to all other cities in Johnson County.

### School Crossing Guards; HB 2420

**HB 2420** allows the governing body of any township in Johnson County to appoint and equip volunteers and designated employees as school crossing guards. Formerly, only school districts, nonpublic schools, cities, and counties were authorized to provide school crossing

guard services. In addition, the bill authorizes all the named types of jurisdictions to provide training to designated employees as school crossing guards. Prior law authorized such training only for volunteers.

The bill also allows the authorized types of jurisdictions to contract with private providers for school crossing guard services.

### **Electronic Filing of Audit Reports by Municipalities; HB 2591**

**HB 2591** modifies an audit report filing provision to require municipal audit reports be filed electronically with the Secretary of Administration, or the Secretary's designee, on or after January 1, 2015. Currently, those reports may be filed as hard copy with the Director of Accounts and Reports. The bill also requires all audit reports include the circular A-133 audit report described in Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," where required under the provisions of the federal Single Audit Act, and any other audit-related documents deemed necessary by the Secretary of Administration. The bill further modifies the law to eliminate requirements for municipalities to submit audit reports to any state agency other than the Department of Administration.

### **Recycling Collection by Municipalities; HB 2597**

**HB 2597** allows municipalities that already provide solid waste collection services to immediately offer recycling collection services. In order for the municipality to immediately offer recycling services, the following conditions must be met:

- The municipality must conduct a public hearing on the proposed plan to provide recycling services;
- The municipality must provide 21 days prior notice of the hearing by publication in the official newspaper of the municipality and in the *Kansas Register*; and
- No existing recycling collector formally opposes the new recycling collection system within 21 days of the hearing.

If an objection is made to the municipality offering the service, the municipality must comply with continuing law, KSA 2013 Supp. 12-2036, which requires that a municipality wait 18 months or until the objection is withdrawn, whichever occurs first, before beginning the recycling service.

### **Kansas City, Kansas, Boat Ramp; HB 2599**

**HB 2599** authorizes and directs the Secretary of State to grant an easement for a boat ramp on state-owned land along the north bank of the Kansas River, near I-35 and 7<sup>th</sup> Street in Kansas City, Kansas, in Wyandotte County. The bill authorizes the Unified Government of Wyandotte County and Kansas City to construct a boat ramp within the easement for emergency use by the Kansas City, Kansas, fire department.

Granting of the easement is conditioned on the Unified Government prohibiting public use of the boat ramp. The Unified Government is responsible for any use of the ramp, and the state is held harmless from any liability related to use of the ramp. The Office of Attorney General is required to approve the legal document granting the easement.

## OPEN RECORDS

### Exceptions to the Open Records Act; Senate Sub. for HB 2182

**Senate Sub. for HB 2182** revises the law concerning exceptions to the Open Records Act. Specifically, the bill strikes a sunset clause that requires the Legislature to reenact an exception for records concerning public adjusters submitted to the Insurance Commissioner that contain information identified in writing as proprietary. The bill also provides that the exceptions found in the following statutes will not expire:

- KSA 1-205, concerning testimony and documents gathered by the State Board of Accountancy during the investigation of a complaint;
- KSA 2-2204, concerning the complete formula and any other trade secrets submitted to the Secretary of Agriculture to support an agricultural chemical registration application;
- KSA 8-240 and 8-1324, concerning the Social Security number of an applicant for a driver's license, instruction permit, or a nondriver's identification card;
- KSA 8-247 and 8-1325, concerning information about the willingness of an applicant for a nondriver's identification card or renewal of a driver's license to be placed on the organ donor registry;
- KSA 8-255c, concerning reports made to the Division of Vehicles that a person has a mental or physical condition and all medical records reviewed and maintained by the Division;
- KSA 12-17,150, concerning information included in the Secretary of Revenue's report identifying each retailer located in a redevelopment district or transportation development district setting;
- KSA 12-2001, concerning information provided to municipalities and political subdivisions;
- KSA 17-12a607, concerning information held by the Securities Commissioner in connection with certain audits, inspections, and investigations; legally protected trade secrets or confidential information; information not otherwise required to be disclosed that is provided on the condition the record will not be subject to public examination or disclosure; and any social security number, residential address, and residential telephone number contained in a filed record;
- KSA 38-1008, concerning the ability of the Interstate Commission for Juveniles to close a meeting to the public;
- KSA 38-2209, concerning records of children who are the subject of a child in need of care investigation;

- KSA 40-5006, concerning information held by the Commissioner of Insurance related to a viatical settlement;
- KSA 40-5108, concerning any filing relating to insurance scoring models or other insurance scoring processes;
- KSA 41-2905 and 41-2906, concerning records kept by a retailer on the sale of any beer or cereal malt beverage keg;
- KSA 44-706, concerning evidence of whether an individual has experienced domestic violence maintained as part of a Department of Labor determination of eligibility for unemployment benefits;
- KSA 44-1518, concerning information or material received by the Secretary of State pursuant to a subpoena for any material relevant to the administration of the Uniform Athlete Agents Act;
- KSA 45-221(a)(44), concerning the amount of franchise tax paid to the Secretary of Revenue or the Secretary of State by certain business entities;
- KSA 45-221(a)(45), concerning records, other than criminal investigation records, which if disclosed would pose a substantial likelihood of revealing security measures that protect systems, facilities, or equipment used in the production, transmission, or distribution of energy, water, or communications services; transportation and sewer or wastewater treatment systems, facilities, or equipment; or private property or persons, if the records are submitted to the agency;
- KSA 45-221(a)(46), concerning information or material received by the register of deeds of a county from military discharge;
- KSA 45-221(a)(47), concerning information that would reveal the location of a shelter or a safe-house or similar place where persons are provided protection from abuse or the name, address, location or other contact information of alleged victims of stalking, domestic violence, or sexual assault;
- KSA 45-221(a)(48), concerning policy information provided by an insurance carrier related to the issuance, nonrenewal, or cancellation of a workers compensation insurance policy;
- KSA 50-6a11, concerning information obtained by the Director of Taxation and disclosed to the Attorney General or shared with federal agencies, attorneys general of other states, or directors of taxation or their equivalents of other states for purposes of enforcement of the Tobacco Settlement Agreement, the corresponding federal laws, or the corresponding laws of other states;

- KSA 56-1a610 and 56a-1204, concerning copies of applications for extension of time for filing income tax returns submitted by a limited partnership or limited liability partnership to the Secretary of State;
- KSA 65-1,243, concerning records received and information assembled by the Birth Defects Information System related to congenital anomalies, stillbirths, and abnormal conditions of newborns;
- KSA 65-16,104, concerning methamphetamine precursor recording log information submitted to the Board of Pharmacy;
- KSA 65-3239, concerning organ and tissue donor registry information;
- KSA 74-50,184, concerning information provided to the Department of Commerce's Athletic Commission by the Kansas Bureau of Investigation as part of a background check for the position of Boxing Commissioner;
- KSA 74-8134, concerning the portions of documents and other materials that contain trade secrets submitted to the Secretary of Commerce as part of an application to be approved as a qualified Kansas business;
- KSA 74-99b06, concerning records of the Bioscience Authority when the Board of Directors determines disclosure would be harmful to the competitive position of the Authority;
- KSA 77-503a, concerning the name, address, or other contact information of alleged victims of crime, abuse, domestic violence, or sexual assault in any required notice or order under the Kansas Administrative Procedure Act; and
- KSA 82a-2210, concerning information included in the Secretary of Revenue's report identifying each retailer located in the Horsethief Reservoir Benefit District.

## RETIREMENT

### **KPERS Tier 3 Plan Modified; HB 2533**

**HB 2533** makes retirement plan design changes for future tier 3 members of the Kansas Public Employees Retirement System (KPERS) plan to be implemented on January 1, 2015, to include most newly hired public employees. The provisions of the bill:

- Change the base year from 2016 to 2015 for initial calculation of interest credits on annuity savings accounts and on retirement annuity accounts;
- Reduce the minimum guaranteed crediting rate from 5.25 percent to 4.0 percent for both types of accounts. The bill also revises the formula for determining the additional discretionary interest credits for both types of accounts; and
- Revise the initial annuity interest rate credit of 6.0 percent at time of retirement to an interest rate equal to 2.0 percent less than the actuarial assumed investment rate of return, as established by the KPERS Board of Trustees upon the member's annuity start date. The current earnings assumption is 8.0 percent, as adopted by the KPERS Board of Trustees in 1987.

### **Unclassifying KPERS Staff; HB 2602**

**HB 2602** removes the statutory limitation on the maximum percentage of allowable unclassified staff working for the Kansas Public Employees Retirement System, which has been capped at 25.0 percent.

## STATE FINANCES

### State Budget; Senate Sub. for Sub. for HB 2231, Senate Sub. for HB 2506, and Senate Sub. for HB 2338

**Senate Sub. for Sub. for HB 2231, Senate Sub. for HB 2506, and Senate Sub. for HB 2338** includes funding for claims against the state, FY 2014 and FY 2015 supplemental expenditures for most state agencies, and FY 2014 and FY 2015 capital improvements for selected state agencies.

### ***FY 2014***

The approved FY 2014 budget totals \$15.029 billion, including \$5.999 billion from the State General Fund. The approved budget is a reduction of \$34.8 million from all funding sources, including a decrease of \$27.1 million from the State General Fund below the Governor's recommended expenditures. The budget also reflects a decrease of 71.0 FTE positions below the Governor's recommendation, primarily due to the deletion of 40.0 vacant positions in the Department of Labor, 15.0 vacant positions in the Adjutant General, and 12.0 vacant positions in the Kansas Bureau of Investigation. The FY 2014 approved budget provides for a State General Fund balance of \$694.9 million, or 11.6 percent of state expenditures.

Among the approved adjustments to the Governor's FY 2014 recommendations include:

- Adjusted for the new spring estimate for all human services caseloads with a **decrease of \$17.1 million from all funding sources and \$24.5 million from the State General Fund**. These adjustments include a decrease of \$640,598 from all funding sources for the Temporary Assistance to Families (TANF) program which reflects new program policies and adjustments to reflect current trends. In addition, the estimate includes a reduction of \$4.7 million from the State General Fund that reflects a reduction in the state maintenance of effort that is possible because the TANF work participation rate has been met without the need for excess maintenance of effort. The estimate for Foster Care is reduced by \$74,991 from all funding sources. However, the State General Fund portion is increased by \$2.9 million, which reflects a decrease in the amount of federal funding that can be claimed for the program. The new estimate for the Department of Corrections/Juvenile Services Out of Home Placements reflects fewer children in the system and estimated savings of \$2.4 million, including \$1.9 million from the State General Fund.
- Deleted \$1.1 million, all from the State General Fund, for reappropriations from FY 2013 to FY 2014. Deleted reappropriations include \$498,692 from the Department of Commerce, \$200,000 from the Office of the Attorney General, \$194,454 from the Department of Administration, and \$137,514 from the Kansas Bureau of Investigation, among others.
- Added \$169,698, all from the State General Fund, for the Municipal University Operating Grant.

**FY 2015**

For FY 2015, the approved budget totals \$15.352 billion, including \$6.301 billion from the State General Fund. This represents an increase from all funding sources of \$755.9 million and a State General Fund expenditures increase of \$92.2 million above the Governor's recommendations for FY 2015. Full-time equivalent (FTE) positions were decreased by 168.0 below the Governor's recommendation. The budget also represents decreased State General Fund receipts of \$15.9 million for FY 2015. The FY 2015 approved budget provides for a State General Fund balance of \$362.6 million, or 5.8 percent of state expenditures.

Among the approved adjustments to the Governor's FY 2015 recommendations include:

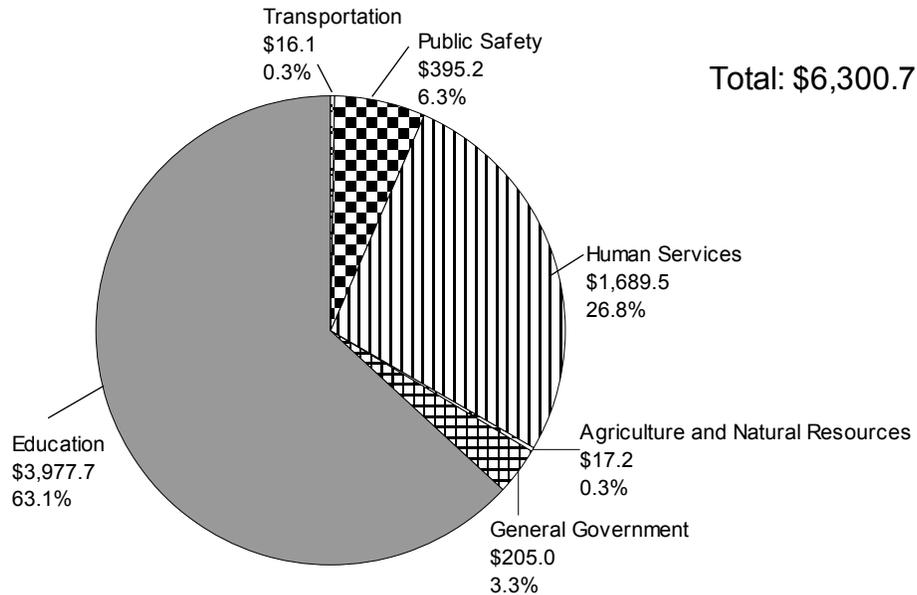
- Adjusted for the new spring estimate for all human services caseloads with an **increase of \$55.2 million from all funding sources and a decrease of \$6.0 million from the State General Fund**, as compared to the Governor's recommended budget. The estimate for the TANF program is a decrease of \$2.3 million all from federal funds. As was the case for the FY 2014 estimate, the number of families receiving services is expected to decrease. The decrease in state maintenance of effort for the TANF program reflects savings of \$4.7 million from the State General Fund and was included in 2014 Senate Sub. for HB 2506. The estimate for Foster Care is increased by \$1.2 million from all funding sources, including \$4.8 million from the State General Fund, which reflects an increase in the number of children in the program and a decrease in the amount of federal funding that can be claimed for the program. The estimate for the Department of Corrections/Juvenile Services Out of Home Placements is decreased by \$2.3 million, including \$2.2 million from the State General Fund, resulting from fewer children in the program;
- Added \$16.3 million, including \$7.1 million from the DADS Social Welfare Fund, which was made available from the Children's Health Insurance Program Reauthorization Act (CHIPRA) bonus received and transferred to provide additional services to individuals with physical and developmental disabilities;
- Transferred \$400,000 from the State General Fund to the State Fair Capital Improvements Fund to match the agency's \$300,000 contribution.
- Redirected \$160,000 from the Weights and Measures program to wheat genetics research in the **Department of Agriculture**;
- Added \$940,646, from the State General Fund, for a 10.0 percent base pay increase to forensic scientists and special agents in the **Kansas Bureau of Investigation**;
- Added \$11.3 million, including \$4.5 million from the State General Fund, for employee bonuses of \$250 for all full-time employees except elected officials who were employed on December 6, 2013, and which will be paid December 6, 2014;
- Deleted \$10.5 million, including \$5.1 million from the State General Fund, for a 1.5 percent base pay increase for classified executive branch employees;

- Added \$500,000, all from the State General Fund, to provide information technology opportunities to high schools through the Board of Regents;
- Closed Rainbow Mental Health Facility and transferred 30 beds to Osawatomie State Hospital. Total costs for the transfer are a net zero;
- Added \$235,000, all from the State General Fund, for the Internet Training Education for Kansas Kids Grant Program in the **Office of the Attorney General** to provide Internet training for kids predominantly through local girls and boys clubs. The Legislature also approved a Governor's Budget Amendment of \$94,393 from the State General Fund, to fund SB 256, which allows for citizen petitions for grand jury indictments;
- Added \$250,000, all from the State General Fund, and 3.0 FTE positions to increase the number of audits performed by **Legislative Division of Post Audit**;
- Deleted \$143,720, all from the State General Fund, in the **Department of Administration** for vacant positions in the Office of Systems Management and a supplemental request for a conference for volunteer Certified Long Term Care Ombudsman;
- Added \$109.3 million for Supplemental General State Aid (local option budget equalization aid) and makes a revenue transfer of \$25.2 million to the Capital Outlay Fund from the State General Fund (**HB 2506**);
- Added \$17.4 million, all from the State General Fund, although there is shift of approximately \$18.0 million from special revenue funds to the State General Fund for FY 2015 (**HB 2506**);
- Restored funding of \$2.1 million, all from the State General Fund, for the tiered technical formula to community and technical colleges (**HB 2506**);
- Added \$1.9 million from the State General Fund for the GED® accelerator program;
- Added \$316,853 for the Kansas Academy of Math and Science Summer Academy (**HB 2506**);
- Added \$500,000 from the State General Fund for training and equipment for Wichita State University (**HB 2506**);
- Added \$2.0 million, all from the State General Fund, for the Judicial Branch. The additional appropriation provides a State General Fund budget of \$97,783,948 for FY 2015 (**HB 2338**); and
- Added \$586.8 million, all from special revenue funds, to the Department of Education from language in Sub. for SB 245 which requires the deposit of 20 mill

property tax in the State Treasury. This was formerly provided directly to local school districts.

The following pie chart reflects approved State General Fund expenditures by function of government for FY 2015:

**FY 2015 Approved State General Fund Budget  
by Function of Government  
(Dollars In Millions)**



All dollar figures in this summary reflect the items included in the Governor's veto message dated May 16, 2013. The impact of the veto actions regarding Senate Sub. for Sub. for HB 2231 represent total additional expenditures of \$189,835 for FY 2014. The impact of veto actions reflect a decrease in total expenditures of \$705,363 and a decrease in revenue adjustments of \$5.4 million for FY 2015.

## STATE GOVERNMENT

### **Oil and Gas Valuation Depletion Trust Fund; Sub. for SB 245**

**Sub. for SB 245** amends law to credit 12.41 percent of FY 2013, FY 2014, and FY 2015 mineral severance taxes collected in counties with receipts in excess of \$100,000 to the Oil and Gas Valuation Depletion Trust Fund (OGVDTF) for distribution in FY 2014, FY 2015, and FY 2016, respectively. The bill abolishes the OGVDTF on July 1, 2016.

The bill also creates the Mineral Production Education Fund (MPEF) on July 1, 2016. Beginning in FY 2017, the bill credits the fund with 20 percent of mineral severance taxes collected during the previous fiscal year in counties with receipts in excess of \$100,000. The monies in the MPEF subsequently will be transferred twice each year to the State School District Finance Fund (SSDFF).

The bill allows counties to retain funds currently in their respective oil and gas valuation depletion trust funds, and those funds will be released to their county general fund to be expended as directed by the board of county commissioners. Under previous law, counties may only release 20 percent from the OGVDTF to the county general fund if the oil and gas leasehold *ad valorem* valuation of the county is less than 50 percent of the oil and gas leasehold *ad valorem* valuation of the county for the second succeeding tax year, as certified by the Property Valuation Division, Department of Revenue.

Further, the bill provides that the mandatory school district general fund property tax levy (20 mills) be remitted to the State Treasurer for deposit in the SSDFF. Under previous law, this money was distributed to school district general funds with the exception of excess local effort, which is transferred to the SSDFF.

### **Addressing Boiler Inspectors and Technical Professions; SB 349**

**SB 349** amends existing statutory provisions for two State entities and adds new law for each entity:

- The Chief Boiler Inspector and Deputy Boiler Inspectors in the Office of State Fire Marshal; and
- The Board of Technical Professions and its regulated professions.

#### ***Boiler Inspectors***

Under the provisions of the bill, the Chief Boiler Inspector is required to:

- Have not less than five years of experience in the construction, installation, repair, operation, or inspection of boilers, steam generators, super-heaters, or pressure vessels; and
- Hold a commission issued by the National Board of Boiler and Pressure Vessel Inspectors and have all of the following credentials:

- In-service commission;
- “A” endorsement; and
- “B” endorsement or obtain a “B” endorsement within 18 months after appointment.

Deputy Boiler Inspectors are required to:

- Have completed courses and training, and have experience in the construction, installation, repair, operation, or inspection of boilers, steam generators, superheaters, or pressure vessels, which in the aggregate amounts to not less than two years of education, training, and work experience; or
- Have not less than five years experience in the heating, ventilation, air conditioning, or plumbing fields related to the installation or repair of boilers or pressure vessels; and
- Hold an in-service commission issued by the National Board of Boiler and Pressure Vessel Inspectors or obtain such commission within 12 months after appointment.

### ***Board of Technical Professions***

The bill also changes the statutory provisions administered by the Board to:

- Standardize language and make clarifying technical changes, including updates to the definitions relating to the professions of architecture, engineering, geology, landscape architecture, and surveying;
- Add clarifying language about professional engineers, specifically a reference to education, training, and experience, and an exemption to continue to be able to perform certain historical services;
- Add “safety” to the charge of the Board of Technical Professions and clarify the process for recording any proceedings of the Board;
- Make changes in the membership requirements for members of the Board of Technical Professions by requiring the applicable members to be licensed in Kansas (not just to reside in the state) and to specify Board membership eligibility by requiring “responsible charge” experience in those professions;
- Allow the Board to charge a fee of not more than \$200 for a late renewal of a license and also to charge a fee of not more than \$200 (currently \$100) to reactivate an inactive license or to reinstate a canceled license;
- Clarify how a roster of individuals licensed under KSA 74-7001 (those in technical professions) can be made available under the Kansas Open Records Act;

- Allow the Board to adopt rules and regulations regarding:
  - Canceled, inactive, and emeritus licensing statutes; and
  - Minimum standards for boundary surveys, mortgage title inspection, American Land Title Association surveys, and other surveys as necessary to control the quality of surveying;
- Establish minimum qualifications of applicants seeking licensing as professional geologists;
- Make technical amendments regarding professional document seals for licensees and clarifying the penalty for allowing documents not prepared by the licensee to include the licensee's seal or name;
- Clarify language regarding licenses from other states;
- Prohibit a licensee from practicing any technical profession after the expiration of a license and make other changes to the licensing law regarding the voluntary decision to no longer practice a technical profession;
- Add "professional" to the terms "geologists" and "surveyors" as listed throughout various statutes of the Board;
- Clarify exemptions to the architectural licensing requirements;
- Clarify exemptions to the surveying licensing requirements, including types of mapping conducted by governmental agencies;
- Establish exemptions to the geology licensing requirements;
- Clarify that a Certificate of Authorization is required by any business practicing any of the regulated professions prior to doing any business in Kansas;
- Allow the Board to assess costs and attorney fees against any person or entity for violation of statutes, rules and regulations, or orders of the Board; and
- Clarify the supervisory responsibilities of professionals with multiple offices.

**Authorizing the Department of Administration to Sell Landon, Eisenhower, Curtis and Van Buren State Office Buildings; SB 423**

**SB 423** grants the Department of Administration the authority to sell the Landon State Office Building, the Eisenhower State Office Building, the Curtis State Office Building and parking facility, and the Van Buren Project. The sale is subject to approval by the Joint Committee on State Building Construction and the State Finance Council.

The Van Buren Project and the Curtis State Office Building currently are not owned by the State; however, the Department for Children and Families (DCF) and the Department of Administration leases include an option to purchase agreement. The bill grants the Secretary of Administration the authority to exercise that option to purchase on the behalf of DCF and to further convey the property according to the same restrictions and authorizations established on the Landon and Eisenhower State Office Buildings.

The bill directs 80.0 percent of the proceeds from the sale of the properties to the Kansas Public Employee Retirement System Trust Fund for the purpose of reducing the unfunded liability after any outstanding obligations on the properties are satisfied, including any outstanding bonds, closing costs, and costs and expenses associated with exercising an option to purchase. The remaining 20.0 percent of the proceeds from the sale would be deposited in a special revenue fund within the Department of Administration for the Landon, Eisenhower and Curtis Buildings, and DCF for the Van Buren Project.

The bill further bars any affiliated person from bidding on or holding an interest in a company purchasing the property described above. "Affiliated person" is defined to include any state or local official or family member of a state or local official within five years of the official holding office. The bill also bars state or local officials from soliciting services or discounts from any person or business bidding on the property and bars those state or local officials from attempting to influence the bidding process. The bill makes violation of any provision described here a class A misdemeanor.

The bill exempts the sale from the provisions relating to the sale of surplus real estate by a state agency (KSA 2013 Supp. 75-6609), including listing at public auction *via* a sealed bid procedure, listing with a licensed real estate broker or agent, appraisal of the property, and other provisions not relevant to the sale of the buildings described within the bill. The Department of Administration may engage in any of the procedures described above but is not statutorily compelled to do so.

The bill designates the first \$15.0 million from the sale of the Landon or Eisenhower Buildings, or both, be deposited in a special revenue fund within the Department of Administration to fund the demolition of the Docking State Office Building. Legislative approval of the demolition of the Docking State Office Building is not contained within this bill but would be dependent on separate legislation.

### **Contracts for Audits; Sub. for HB 2002**

**Sub. for HB 2002** re-codifies current statutory auditing requirements for the Kansas Lottery and the Kansas Public Employees Retirement System (KPERs). The bill consolidates several current statutory provisions related to annual financial audits of both agencies and for one or more performance audit subjects of KPERs audits into the Legislative Post Audit Act. The bill also changes the background investigation requirements for the vendor selected to perform a security audit for the Kansas Lottery and adds the revised procedures to the Legislative Post Audit Act. In addition, the bill continues to allow the Legislative Post Auditor to charge any costs for auditing to the agencies being audited.

## State Fossils; HB 2595

**HB 2595** designates the *Tylosaurus* as the official state marine fossil and the *Pteranodon* as the official state flying fossil.

## Feasibility Report on State Administration of Federal OSHA Standards; Senate Sub. for HB 2616

**Senate Sub. for HB 2616** requires the Secretary of Labor to study and make recommendations concerning whether the State should propose a safe and healthful employment plan to the federal government that is at least as effective as the standards set by the federal Occupational Safety and Health Act (OSHA).

By January 12, 2015, the Secretary will submit a report to the President of the Senate, the Senate Committee on Commerce, the Speaker of the House, and the House Committee on Commerce, Labor and Economic Development including an identification of:

- Agreements which would be needed to implement the plan;
- Funding sources to finance the plan;
- Statutory and rule and regulation changes necessary for the implementation of the plan;
- An estimate of additional staff;
- Steps needed for interaction with the federal government; and
- Any other matters the Secretary determines to be necessary.

## Business Entity Standard Treatment (BEST) Act; Sub. for Sub. for HB 2721

**Sub. for Sub. for HB 2721** creates the Business Entity Standard Treatment (BEST) Act, centralizing the requirements for the most common filings that corporations, limited liability companies, limited partnerships, and limited liability partnerships must file with the Kansas Secretary of State into one location in the *Kansas Statutes Annotated*. The bill takes effect on January 1, 2015.

## TAXATION

### **Tax Provisions—Court of Tax Appeals; Property Tax Valuation; Delinquent Property Taxes; House Sub. for SB 231**

**House Sub. for SB 231** makes a number of changes in the power, duties, and functions of the State Court of Tax Appeals (COTA), especially with regard to property tax valuation appeals; renames that body the State Board of Tax Appeals (BOTA); makes several changes with respect to how property may be valued for taxation purposes; and lowers the interest rate on delinquent property taxes.

#### ***Changes in COTA/BOTA Procedures***

A requirement that final orders regarding property tax cases be rendered in writing and served within 120 days after matters have been finally submitted is replaced with a provision requiring a written summary decision be rendered and served within 14 days. Extensions from this deadline can continue to be granted pursuant to the written consent of all parties or for good cause shown. An aggrieved party, within 14 days of having received the summary decision, can request a full and complete BOTA opinion within 90 days. Failure of BOTA to comply with the 14-day or 90-day requirements, absent agreement by the parties or good cause shown, results in all filing fees being returned to the taxpayer.

Aggrieved persons have the right to appeal final orders of BOTA to a district court or the Kansas Court of Appeals, rather than only to the Court of Appeals. Any appeal made to a district court will be a *de novo* trial. All such appeals to district courts will be conducted by the court with jurisdiction in which the property is located; or, if the property in question is located in multiple counties, the appellants have the option of choosing which district court will hear the appeal. A requirement that bonds be given of up to 125 percent of taxes assessed when reviews of property tax cases are being sought is repealed.

A new provision stipulates that one member of BOTA be a licensed and certified general real property appraiser. Additional language limits to 90 days after the expiration of members' terms the maximum amount of time they could continue to serve.

A requirement that those appeals decided by COTA (BOTA) deemed to be "of sufficient importance" be published is replaced with a new mandate that all appeals be made available to the public and published on the body's website within 30 days. A monthly report on all appeals decided, as well as all of those that have not yet been decided and are beyond the new statutory deadlines, is required to be made available to the public and transmitted to all 165 members of the Kansas Legislature.

An additional provision declares legislative intent that all proceedings in front of BOTA be conducted in a fair and impartial manner, and that all taxpayers be entitled to a neutral interpretation of state tax laws. BOTA is prohibited from deciding cases based upon arguments concerning the shifting of tax burdens or upon revenue losses or gains.

Relative to the cases in the small claims division, the chief hearing officer is prohibited from appointing any persons employed by BOTA as hearing officers. The maximum amount of appraised valuation above which cases cannot be considered in the small claims division is

increased from \$2 million to \$3 million. Additional language clarifies that notices of appeal to the small claims division can be signed by either taxpayers or their authorized representatives.

In cases involving leased commercial and industrial property, taxpayers bear the burden of proof unless they have furnished county appraisers with complete income and expense statements for the property, within 30 calendar days on forms regularly maintained by taxpayers in the ordinary course of business for the three years prior to the appeal year in question. Single-property appraisals involving leased commercial and industrial property submitted by taxpayers with an effective date of January 1 are deemed to return the burden of proof to county appraisers.

The salaries of members and the chief hearing officer who are newly appointed after June 30, 2014, will be set at the same amounts paid to administrative law judges until such time as the continuing education requirements have been met, at which point the salaries will be \$2,465 less per year than amounts paid to a Chief Judge of the district court. (The current COTA Chief Judge receives the salary equal to that of a district court's Chief Judge; other COTA judges and the chief hearing officer receive salaries \$2,465 per year below that level.)

Additional provisions prohibit BOTA from determining who may sign appeals forms, who may represent taxpayers, what constitutes the unauthorized practice of law, and whether contingency fee agreements are a violation of public policy. BOTA further is prohibited from impeding any agreement or settlement between a county and a taxpayer.

Relative to cases involving residential real estate and commercial and industrial real property, appraisals made by counties are required to be released through the discovery process to taxpayers or their representatives. Taxpayers in such cases submitting single-property appraisals with an effective date of January 1 that have been conducted by certified general real property appraisers and for which valuations are less than the amounts determined by the county mass appraisals are entitled to have the qualifying single-property appraisals accepted into evidence at BOTA.

New language stipulates filing fees can no longer be charged to taxpayers who have filed appeals for a previous year that have not been decided under the new statutory time deadlines, to taxpayers filing in most cases involving single-family residential property, and for cases of not-for-profit organizations with property valued at less than \$100,000. An additional provision exempts municipalities and political subdivisions from all filing fees.

A statutory requirement that a request for reconsideration of final COTA orders be filed before seeking judicial review is eliminated.

### ***Property Tax Valuation System Changes***

A requirement that appraisals be performed in accordance with certain standards of the Appraisal Foundation in effect as of March 1, 1992, is amended such that the specific date is repealed, effectively requiring all appraisals to be performed prospectively in accordance with that Foundation's most current standards.

The bill prohibits county appraisers from increasing the valuation for two years for certain real property that has had its value reduced by a final determination made pursuant to the valuation appeals process, unless substantial and compelling reasons have been documented

by the appraisers. “Substantial and compelling reasons” are defined generally either to include a change in the use of the property or to include situations involving substantial additions or improvements to the property. Additions or improvements defined as substantial include expansions or enlargements of the physical occupancy of the property or renovations of existing structures or improvements. Specifically excluded from the additions and improvements that can be considered substantial (and therefore be construed as a substantial and compelling reason to increase valuation) are maintenance or repair of existing structures, equipment or improvements on that property, and reconstruction or replacement of existing equipment or components of any existing structures or improvements. (The law had prohibited county appraisers from increasing certain valuations that have been reduced for one year absent the determination of substantial and compelling reasons, which had not been defined.)

### ***Delinquent Property Tax Interest Rate Change***

The interest rate for delinquent property taxes is reduced by 2.0 percent. The rate had been as otherwise determined statutorily by KSA 2013 Supp. 79-2968, plus 2.0 percent; the additional 2.0 percent is eliminated by the bill. (The property tax delinquency rate determined for tax year 2013, which was 6.0 percent, would have been 4.0 percent if this provision had been in effect for that tax year.)

### ***Renaming***

The bill replaces numerous statutory references to COTA with references to BOTA.

### **Tax Provisions—Adoption Tax Credits; Agricultural Projects Sales Tax Exemption; Livestock Net Gain Deduction; Dwelling and Accessibility Credits; Other Provisions; SB 265**

**SB 265** makes changes to the definition of income within the Homestead Refund Program; removes the income tax withholding requirement for nonresident pass-through entities; clarifies amounts added to federal adjusted gross income for the purposes of calculating Kansas adjusted gross income; reinstates two adoption tax credits; provides an income tax subtraction modification associated with organ donation; creates a sales tax exemption for certain materials, machinery and equipment installed as a part of certain animal production and aquaculture projects; creates a tax deduction for the net gain from the sale of certain livestock; reinstates two tax credits for expenditures used to make a dwelling or facility accessible for persons with disabilities; and repeals the sunset date for the Kansas Taxpayer Transparency Act.

### ***Homestead Refund Program***

The bill changes the definition of “income” to disregard the new “non-wage business income” exemption for the purpose of calculating income for both the homestead refund and the Selective Assistance for Effective Senior Relief (SAFESR) tax credit of the Homestead Refund Program. Under the current definition of “income” for the Homestead Refund Program, any person whose sole income was exempt under the “non-wage business income” exemption (created by the passage of 2012 HB 2117) qualifies for the refund, assuming the other eligibility qualifications were met.

### ***Nonresident Pass-Through Entity Withholding Requirement***

The bill removes the requirement that nonresident subchapter S corporations, partnerships, and limited liability companies withhold income tax from shareholders, partners, and members.

### ***Kansas Adjusted Gross Income***

The bill clarifies that the amount added to federal adjusted gross income for any deduction for self-employment taxes under section 164(f) of the federal Internal Revenue Code for purposes of determining Kansas adjusted gross income is limited to the deduction attributable to income reported on schedule C, E, or F and on line 12, 17, or 18 of the federal form 1040.

### ***Adoption Tax Credits***

The bill reinstates two adoption tax credits removed during the 2012 Legislative Session. One credit allows for a credit equal to 25 percent of the federal adoption tax credit. An additional 25 percent of the federal adoption tax credit is allowed if the child adopted was a Kansas resident prior to adoption. An additional 25 percent of the federal adoption tax credit is allowed if the child adopted was a child with special needs, as defined by the federal Internal Revenue Code. The other credit the bill allows is a \$1,500 credit for the adoption of a child with special needs or a child in the custody of the Secretary for Children and Families.

### ***Agricultural Projects Sales Tax Exemption***

The bill creates a sales tax exemption for certain animal production and aquaculture businesses classified under subsector 112 of the North American Industry Classification System (NAICS) for the purchase of materials, machinery, and equipment for the purpose of constructing, reconstructing, enlarging, or remodeling the business.

### ***Living Donor Organ Donations***

The bill authorizes certain expenses associated with the donation of one or more human organs, as outlined in the bill, to be claimed as a subtraction modification on a taxpayer's tax return beginning with tax year 2014. The subtraction modification for any individual or dependent is limited to \$5,000. The provisions take effect on the day the Secretary of Revenue certifies to the Director of the Budget that the cost to the Department of Revenue for modifications to the automated tax system to accomplish the intent of the bill would not exceed \$20,000.

### ***Livestock Net Gain Deduction***

The bill creates an income tax deduction from federal adjusted gross income in determining Kansas adjusted gross income for the net gain of the sale of any cattle or horses held by the taxpayer for draft, breeding, dairy, or sporting purposes that were held by the taxpayer for 24 months or more from the date of acquisition. The bill creates the same deduction for other livestock held for draft, breeding, dairy, or sporting purposes for 12 months

or more from the date of acquisition. The deduction is limited to the amount of losses reported on schedules C, E, and F and lines 12, 17, and 18 of the federal form 1040 attributable to the business in which the livestock sold had been used.

### ***Dwelling and Facility Accessibility Credits***

The bill further reinstates, retroactive to tax year 2013, an individual income tax credit repealed in 2012 to provide reimbursement under certain circumstances for a portion of the costs associated with modifying a taxpayer's principal residence to make it more accessible to persons with disabilities. The maximum amount allowed is \$9,000, and the credit phases out altogether at federal adjusted gross income of \$55,000 and above. The bill also reinstates, retroactive to tax year 2013, a second credit to provide reimbursement for a portion of the costs borne by individual income taxpayers making other facilities more accessible to persons with disabilities. This credit, which also was repealed in 2012 for individual (but not corporation) income taxpayers, generally is limited to 50 percent of qualifying expenditures and capped at \$10,000.

### ***Taxpayer Transparency Act Sunset Repeal***

The bill repeals the sunset date for the Kansas Taxpayer Transparency Act. The Act was scheduled to sunset on June 30, 2014.

### **Tax Provisions—Mineral Severance Tax Return Filing; Sales Tax Exemptions; Rooks County Sales Tax Authority; Property Tax Exemption Procedure for Donated Land; Property Tax Exemption for Amateur-Built Aircraft; SB 266**

**SB 266** changes the due date for the mineral severance tax return; provides three sales tax exemptions; authorizes Rooks County to impose an additional 0.5 percent sales tax to finance construction or remodeling of a jail; removes a requirement that the Court of Tax Appeals (COTA) review and approve applications for a tax exemption for land and easements that are donated to the State for the construction or maintenance of a dam or reservoir; and creates a property tax exemption for amateur-built aircraft.

### ***Mineral Severance Tax Return***

The bill changes the due date for the mineral severance tax return to fall on the same date as the tax remittance, on the twentieth day of the second month following production. Under former law, the mineral severance tax return has been due by the end of the month following production and the tax remittance due on the twentieth day of the second month following production. The bill also makes minor changes to the responsibilities of operators and purchasers in remitting due taxes.

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

Under the bill, one sales tax exemption applies to certain sales of property or services purchased by a contractor for constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities of the Wichita Children's Home, provided the purchases would have

otherwise been exempt if purchased directly by that entity. The Wichita Children's Home is required to provide a contractor with a project exemption certificate.

A second exemption applies to sales of property and services purchased by or on behalf of Reaching Out from Within, Inc., a not-for-profit group, for the purpose of sponsoring certain self-help programs for incarcerated persons.

A final exemption applies to sales of property and services purchased by or on behalf of the Beacon, Inc., a not-for-profit group, for the purpose of helping persons during times of special need acquire food, shelter, clothing and other necessities of life.

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

The bill authorizes Rooks County to impose an additional 0.5 percent sales tax to finance construction or remodeling of a jail. An election is required to be held on the question, and the tax will sunset upon the payment of all costs associated with the project. An additional section of the local sales tax law that requires counties to share a portion of countywide sales taxes with cities also is amended to exclude from that provision a Rooks County sales tax imposed to finance a jail.

### ***Donated Land and Easement Tax Exemption Procedure***

The bill also removes a requirement that COTA review and approve any application for a tax exemption for land and easements donated to the State for the construction or maintenance of a dam or reservoir; a \$400 fee has been assessed for that COTA review. Landowner donations of land and easements to the State may receive a 20-year tax exemption under continuing law, provided the Chief Engineer of the Division of Water Resources certifies the donated land and the county appraiser determines the amount of the exemption. This provision of the bill became effective upon publication in the *Kansas Register*.

### ***Amateur Built Aircraft Property Tax Exemption***

The bill creates a property tax exemption beginning in tax year 2014 for all amateur-built aircraft, manned or unmanned, used for recreational purposes, display purposes, or both.

### **Property Tax—Actions of Local Units; HB 2047**

**HB 2047** prohibits most municipalities, absent a majority vote and publication of such vote in official county newspapers, from approving annual budgets or other appropriations funded by certain increases in property taxes over the prior year that exceed the rate of inflation. The provisions of the bill do not apply to those political subdivisions or taxing districts that receive \$1,000 or less in annual property tax receipts.

A second provision of the bill requires all other municipalities, in response to increases in total tangible property valuation, to reduce the amount of tax levied to the prior year's level, except for the inflation allowance; taxes levied on valuation added as a result of new construction; valuation added from property located within newly added jurisdictional territory;

valuation added because property has changed in use; and valuation added from certain increased personal property. Also excluded from the computation are property taxes that have been previously approved by voters, taxes levied to pay principal and interest on bonds, and taxes collected pursuant to the 21.5 mills in state property tax levies.

Municipalities subject to the requirements contained in the bill generally are defined as all political subdivisions levying property taxes in excess of \$1,000, including counties, townships, municipal universities, school districts, community colleges, drainage districts, and other taxing units.

### **Tax Provisions—Interim County Appraisers; Expensing Deduction; Personal Property; Community Service Tax Credits; Property Tax Abatement; Motor Fuel Tax; HB 2057**

**HB 2057** authorizes the appointment of interim county appraisers; extends an expensing deduction to financial institutions; relieves certain personal property tax liability for owners or lessees of real property upon which personal property has been abandoned or repossessed; clarifies procedures for the collection of taxes on sold or transferred personal property; revises the definition of “community service” as the term is used in the Community Service Tax Credit Program; adds a subtraction modification to the income tax of retired employees of the City of Overland Park Police and Fire Departments; revives and expands a program authorizing counties to grant property tax abatements or credits to owners of homesteads destroyed or substantially damaged by certain disasters; and calculates the conversion of the compressed natural gas to gasoline gallon energy equivalent and the liquified natural gas to diesel gallon energy equivalent for the purpose of per-gallon taxation on natural gas motor fuel.

#### ***Interim County Appraisers***

The bill authorizes boards of county commissioners or the governing body of any unified government to appoint interim county appraisers, subject to approval by the Director of Property Valuation, for up to six months in the event of vacancies. The bill also specifies an appraiser’s term expires on June 30 of the fourth year.

#### ***Expensing Deduction for Financial Institutions Privilege Tax***

The bill extends to the financial institutions privilege tax, effective in tax year 2014, a special “expensing” deduction previously available only under the corporate income tax for certain qualifying investments.

#### ***Personal Property Tax Liability on Abandoned or Repossessed Personal Property***

The bill relieves, under certain circumstances, personal property tax liability for owners or lessees of real property upon which personal property has been abandoned or repossessed. Such owners are no longer liable when the personal property has been abandoned or repossessed after having been assessed for property tax purposes but before the taxes have been paid, provided lawful title to the personalty has been acquired within 12 months of the abandonment or the commencement of legal proceedings designed to effect a repossession.

#### ***Procedures for Collection of Taxes on Sold or Transferred Personal Property***

The bill clarifies procedures for the collection of taxes on sold or transferred personal property. The bill clarifies that the lien for unpaid taxes arising upon the sale or transfer of

personal property only attaches to the property and is not a personal debt of the purchaser and that the lien is only for the amount equal to the tax assessment for the year in which the sale or transfer is made and for no previous years. The bill also clarifies that any unpaid taxes on the personal property for any years prior to the sale or transfer will remain as personal debts of the seller, and such taxes must be levied against the seller for the purposes of vehicle registration or through other existing statutory collection methods.

***Community Service Tax Credit Program***

The bill revises the substantive definition of “community service” as the term is used in the Community Service Tax Credit Program. The program will now include “youth apprenticeship and technical training,” which means activities designed to improve apprenticeship and technical training that support an emphasis on rural construction projects and any necessary equipment, facilities, and supportive mentorship.

***City of Overland Park Income Tax Subtraction Modification***

The bill adds a subtraction modification to the income tax of retired employees of the City of Overland Park Police Department and the City of Overland Park Fire Department.

***Property Tax Abatements for Property Destroyed by Disaster***

The bill revives a program that had sunset at the conclusion of tax year 2013 authorizing counties to grant property tax abatements or credits to owners of homesteads destroyed or substantially damaged by earthquakes, floods, tornadoes, fires, or storms. The bill also expands the program by removing a requirement that the Governor must have declared a disaster relative to the event or occurrence causing the damage or destruction. An additional requirement is eliminated that had prevented counties from granting relief to owners who were recipients of funds from either a public or private buyout or insurance proceeds when such funds were equal to 50 percent or more of the pre-disaster value of the homesteads.

***Conversion Calculations for Motor Fuel Tax***

Finally, the bill calculates the conversion of the compressed natural gas to gasoline gallon energy equivalent and the liquified natural gas to diesel gallon energy equivalent for the purpose of per-gallon taxation on natural gas motor fuel. The conversion formula computes 126.67 cubic feet or 5.66 pounds of compressed natural gas as the energy equivalent of one gallon of gasoline, and it is taxed at \$0.24 per gallon. The conversion formula computes 6.06 pounds of liquified natural gas as the energy equivalent of one gallon of diesel, and it is taxed at \$0.26 per gallon.

**Fiscal Impact**  
(\$ in millions)

FY 2015	\$ (0.55)
FY 2016	(0.55)
FY 2017	(0.55)
FY 2018	(0.55)
FY 2019	(0.55)
<b>5-yr total</b>	<b>\$ (2.75)</b>

### **Sales Tax Exemption—Surface Mining Equipment; Senate Sub. for HB 2378**

**Senate Sub. for HB 2378** clarifies the “integrated plant” sales tax exemption to provide that it includes all equipment used in certain surface mining activities beginning from the time reclamation plans are filed to the acceptance of complete final site reclamations.

### **Boat Tax System; HB 2422**

**HB 2422** makes a number of changes to the new boat tax system being implemented in tax year 2014.

One provision expands the definition of “watercraft” subject to the new law to include all watercraft designed to be propelled by machinery, oars, paddles, or wind action upon a sail for navigation.

Additional language clarifies that watercraft previously exempt under Kansas law will not become taxable pursuant to the new system.

A new exemption is provided for vessels designed to be propelled through the water by human power alone.

Finally, counties will use the county average property tax rate when implementing the new system.

### **Property Tax—Exemption for Military Installation Utility Systems; HB 2455**

**HB 2455** creates a property tax exemption for certain utility systems and appurtenances located on U.S. Department of Defense military installations in Kansas which have been acquired or installed after December 31, 2013, provided such property is primarily used by or provided exclusively to the military.

### **Tax Provisions—Property Tax on Machinery and Equipment; Motor Vehicle Tax Clarification; Mortgage Registration Tax Repeal; Income Tax Penalties; ROZ Program; HB 2643**

**HB 2643** makes a number of amendments to property tax, motor vehicle tax, and mortgage registration tax provisions. The bill also makes a change to an income tax penalty provision and expands the “rural opportunity zone” (ROZ) program.

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

One section of the bill retroactively clarifies legislative intent from 2006 (when a property tax exemption for certain commercial and industrial machinery and equipment was enacted) by determining the circumstances under which property may be classified as personal property or real property. In making the classification determination, county appraisers are required to conform to the definitions of real and personal property provided elsewhere in Kansas law.

Where the classification of property may not be otherwise clearly determined, appraisers are required to utilize a three-part, fixture-law test (generally involving annexation, adaption, and intention) in determining its classification as real or personal.

Additional language clarifies that the basic factors in determining whether items are to be classified as real or personal will be their designated use and purpose, that such determination is to be made on a case-by-case basis, and that all three parts of the three-part fixture test must be satisfied for an item to be classified as real property.

Another set of provisions stipulates that after July 1, 2014, owners of property constructed or purchased with the proceeds of industrial revenue bonds (IRBs) and exempt from property tax will be required to notify county appraisers within 30 days of the completion of improvements on the projects, and the county appraiser subsequently is required to classify the improvements as real or personal property. Owners aggrieved with the classification determination may appeal to the Court of Tax Appeals; the bill authorizes the Court to adopt rules and regulations necessary to implement this. Property classified pursuant to this process may not be reclassified within two years after the expiration of the exemption absent the approval of the Court of Tax Appeals or determination of a material physical change to the property, a material change in the use of the property, or a substantial change in directly applicable law. A statute relating to the IRB exemption also is amended to clarify that any listing of property at the time of the exemption application process will not constitute an official classification for property tax purposes.

Taxpayers or county appraisers are authorized to request that the Property Valuation Division (PVD) of the Department of Revenue contract with independent appraisers to classify and appraise certain “complex” properties. PVD is required to contract with qualified appraisers who are certified real property appraisers with at least three years of experience in classifying and appraising complex properties. Counties are responsible for paying all reasonable costs of the independent classifications and appraisals, regardless of which party made the request. Final determinations made by independent appraisers are deemed admissible before the courts and the Court of Tax Appeals in any subsequent proceedings. PVD is allowed to require county appraisers and taxpayers to submit relevant documentation to the independent appraisers. The bill requires the Secretary of Revenue to adopt rules and regulations necessary to administer the provisions by January 1, 2015.

A further section defines for property tax purposes beginning in tax year 2014 commercial and industrial machinery and equipment to include such property used directly in the manufacture of cement, lime or similar products. Property that is eligible includes kilns, pumps, lifts, process fans, bucket elevators, compressors, raw mills, hammer mills, grinders, conveyors, ball mills, mixers, storage tanks, scales, crushers, reclaimers, processing vessels, filters, electric motors, cement and clinker coolers, finish mills, separators, electric hoists, stackers, roller mills, clinker breakers, hydraulic and lubricating systems used directly in manufacturing and processing activities, analyzers, aeration systems, air pollution control equipment, bulk loading systems, material and gas flow distribution gates, and handling and transport systems. Any such property valued and assessed as public utility property will not qualify for the statutory designation as commercial and industrial machinery and equipment.

***Motor Vehicle Tax Provision***

An additional provision clarifies that a motor vehicle tax exemption involving up to two vehicles owned by certain members of the military includes those full-time members stationed in Kansas who are active guard or reservists under either Title 10 or Title 32 of the *United States Code*.

***Mortgage Registration Tax Provisions***

The mortgage registration tax is phased out over five years, while additional fees collected by county registers of deeds are phased in over four years.

The mortgage registration tax, which has been levied at the rate of 0.26 percent of the principal debt or obligation secured by mortgages, is reduced to 0.2 percent for all mortgages received and filed for record during calendar year 2015; 0.15 percent during calendar year 2016; 0.1 percent during calendar year 2017; and 0.05 percent during calendar year 2018. The tax is repealed altogether beginning in 2019.

Prior law provided that 25/26ths of the revenue be retained by counties, with 1/26th coming to the state for deposit in the Heritage Trust Fund. The bill repeals the requirement that any mortgage registration tax receipts be distributed to the Heritage Trust Fund on and after January 1, 2015.

A number of statutory fees charged pursuant to KSA 2013 Supp. 28-115 relative to documents filed with county registers of deeds are increased from 2015 through 2018 (but are not increased for a final time in 2019 when the mortgage registration tax rate is reduced for the final time).

The fee increases are as follows:

	Prior Law	CY 2015	CY 2016	CY 2017	CY 2018 and thereafter
First page of deeds, mortgages, other instruments	\$ 6.00	\$ 8.00	\$ 11.00	\$ 14.00	\$ 17.00
Each additional page of such documents	2.00	4.00	7.00	10.00	13.00
Recording town plats per page	20.00	22.00	25.00	28.00	31.00
Release/assignment of mortgages	5.00	7.00	10.00	13.00	16.00
Certifying instruments on record	1.00	3.00	6.00	9.00	12.00
Signature acknowledgment	0.50	2.50	5.50	8.50	11.50
IRS tax lien filing notices	5.00	7.00	10.00	13.00	16.00
IRS/KDOR lien release notices	5.00	7.00	10.00	13.00	16.00
Liens for materials/services under KSA 58-201	5.00	7.00	10.00	13.00	16.00

Relative to these aforementioned fees, a new cap applies beginning in calendar year 2015 such that a maximum of \$125 may be levied for recording mortgages of \$75,000 or less involving single-family principal residences.

In addition to the foregoing fee increases, an additional fee of \$1 is levied beginning in calendar year 2015 and credited to the Heritage Trust Fund on the first and all subsequent pages of any deeds, mortgages, and other instruments and on release or assignments of mortgages. An annual statutory cap of \$100,000 on Heritage Trust Fund mortgage registration tax distributions from any given county is replaced with a new cap of \$30,000 from any given county relative to this new \$1 replacement fee.

An existing separate fee of \$2 per page is increased to \$3 per page beginning in calendar year 2015, and receipts from this additional \$1 fee are to be split into two separate \$0.50 portions and deposited in the County Clerk Technology Fund (CCTF) and the County Treasurer Technology Fund (CTTF), which are new funds created by the bill for each county. Moneys up to \$50,000 in each county deposited in the CCTF and the CTTF are required to be used by county clerks and county treasurers to acquire equipment and technological services for the storing, recording, archiving, retrieving, maintaining and handling of certain data. County commissions are authorized to divert amounts in excess of \$50,000 in each county for technological needs of other county offices upon the finding of county clerks or treasurers that such amounts exceed the technological needs of those offices.

### ***Income Tax Provision***

Another part of the bill exempts from a 50 percent underpayment of liability penalty provided under prior law certain income taxpayers who timely pay (generally within 30 days) any tax assessed pursuant to adjustments made by the Director of Taxation. In order to qualify for this exemption, taxpayers must have previously paid in full the amount of tax due as stated on the original returns.

### ***ROZ Program***

Four additional counties are added to the ROZ program pursuant to KSA 2013 Supp. 24-50,222, bringing the total number of designated counties to 77. The additional counties are Cherokee, Labette, Montgomery, and Sumner.

### ***Severability Clause***

A severability clause stipulates that if a portion of the bill were to be held invalid, such invalidity will not affect other provisions of the act.

### ***Fiscal Impact***

Fiscal effects associated with the property tax and motor vehicle tax provisions remain unknown.

The income tax penalty provision is expected to reduce State General Fund (SGF) receipts by \$0.5 million annually.

The ROZ expansion provision is expected to reduce SGF receipts by \$0.8 million in FY 2015 and \$2.5 million in FY 2016 and thereafter.

According to the PVD, mortgage registration tax receipts in CY 2013 were \$47.079 million. Of this amount, \$45.269 million was retained by counties, while \$1.810 million was collected for the Heritage Trust Fund. But an estimated \$0.719 million of Heritage Trust Fund collections was retained in several counties pursuant to a statutory cap of \$0.1 million on such distributions from any given county. Estimated Heritage Trust Fund distributions in CY 2013 therefore were \$1.092 million.

**Taxation**

**Tax Provisions—Property Tax on Machinery and Equipment; Motor Vehicle Tax Clarification; Mortgage Registration Tax Repeal; Income Tax Penalties; ROZ Program; HB 2643**

The phased reduction in the county's share of the tax is expected to equate to a loss of \$9.054 million in CY 2015, \$18.108 million in CY 2016, \$27.161 million in CY 2017, \$36.215 million in CY 2018, and \$45.269 million in CY 2019 and thereafter.

Based on additional data obtained from PVD, the higher county-retained fees levied pursuant to KSA 2013 Supp. 28-115, absent the new cap for certain mortgages of \$75,000 or less, will increase revenues by \$4.450 million in CY 2015; \$11.124 million in CY 2016; \$17.799 million in CY 2017; and, when fully phased in, \$24.473 million in CY 2018. (The actual increase in such fees is expected to be below these amounts, which have not been adjusted to account for the \$125 cap provision applicable to certain mortgages.)

The additional \$1 fee earmarked for the CCTF and the CTTF will provide \$2.225 million beginning in CY 2015 (\$1.1125 million to each fund).

The additional \$1 increase in selected fees for the Heritage Trust Fund also is expected to increase fees by \$2.225 million beginning in CY 2015. Because of changes in the cap provision, the Heritage Trust Fund will receive an estimated \$1.166 million of that amount, with various counties retaining the balance.

## TRANSPORTATION AND MOTOR VEHICLES

### Regulation of Commercial Motor Vehicles; House Sub. for SB 273

**House Sub. for SB 273** allows commercial motor vehicles (CMVs) with a gross vehicle weight, gross vehicle weight rating, gross combination weight, or gross combination weight rating of 26,000 pounds or less operating in intrastate commerce to operate without having to obtain any certificate, license, or permit from the Kansas Corporation Commission. Such vehicles also are exempt from intrastate CMV safety regulations except for load securement regulations and periodic inspection regulations. Law enforcement officers are required to issue warning citations regarding load securement until October 1, 2014, and regarding periodic inspection until July 1, 2015.

CMVs of 26,000 pounds or less which are designed or used to transport 16 or more passengers, including the driver, or vehicles used to transport hazardous materials which require a placard continue to be subject to the certificate, license, or permit requirement and the intrastate CMV safety regulations.

The provisions of the bill expire on July 1, 2015.

### Vehicle Operating Requirements When Loads Are Oversize; SB 344

**SB 344** specifies signage requirements for a vehicle operating on any highway with a special permit because the vehicle exceeds dimension or weight restrictions and specifies the times and weather conditions when those vehicles could operate. The bill also amends when and under what weather conditions a motor carrier transporting hay or related animal forage feedstuffs to a drought disaster area in Kansas, as declared by the Governor or the U.S. Department of Agriculture, are allowed to operate if the vehicle exceeds dimension or weight restrictions. For purposes of this summary, the term “hay transporter” is used.

The bill requires a vehicle operating under a permit because the vehicle exceeds width or length limitations to display an “oversize load” sign of a specified size and lettering on the sign. The bill also requires red flags on all four corners of the oversize load.

The bill specifies these restrictions related to times and weather conditions:

- A vehicle that has a special permit because it exceeds width or length limitations is not allowed to operate from 30 minutes after sunset to 30 minutes before sunrise, when visibility is less than one-half mile, or when highway surfaces have ice or snow pack or driving snow.
- A hay transporter that exceeds width or length limitations is not allowed to operate when visibility is less than one-half mile, or when highway surfaces have ice or snow pack or driving snow. (Under continuing law, such a hay transporter cannot operate from 30 minutes after sunset to 30 minutes before sunrise.)
- A vehicle operating with a permit only because it exceeds weight limitations and a hay transporter that exceeds weight limitations will be permitted to operate 24 hours a day except when highway surfaces have ice or snow pack or drifting snow.

### **Vehicle Identification Number Inspections; SB 351**

**SB 351** amends law related to Vehicle Identification Number (VIN) inspections in these ways:

- Removes the requirement that law enforcement officers arrest the owner or custodian of a motor vehicle, trailer, or semitrailer with a VIN that has been destroyed, removed, altered, or defaced;
- Clarifies that any motor vehicle, trailer, or semitrailer with a VIN that has been destroyed, removed, altered, or defaced and is seized by a law enforcement officer is contraband property. Under this classification, disposition of the seized contraband is governed by KSA 2013 Supp. 22-2512, relating to the custody and disposition of seized property;
- Requires the Kansas Highway Patrol (KHP) to ensure that assembled vehicles are in compliance with the VIN inspection statute (KSA 8-116). If KHP is satisfied the assembled vehicle is not in violation of the statute, KHP must determine the make, model, and year of the assembled vehicle;
- Requires that the VIN inspection fee retained by an inspecting law enforcement agency be used for law enforcement purposes and not used to supplant the law enforcement agency's budget; and
- Prevents a law enforcement agency or employee acting within the scope of employment from liability for damages resulting from VIN inspections.

### **Approving the Creation of a Port Authority in Stafford County; SCR 1620**

**SCR 1620** grants legislative approval for the creation of a port authority in Stafford County. By statute, a port authority can be created only with legislative approval and a port authority cannot exercise statutorily defined powers before the passage of a concurrent resolution. Among other powers, KSA 2013 Supp 12-3406 grants port authorities the power to purchase, construct, or improve transportation-related facilities; apply for, receive, and participate in grants; borrow money; and promote the port and its facilities. The port authority may be dissolved by the county.

### **Highway Portions Designated To Honor Kansans; Sub. for HB 2424**

**Sub. for HB 2424** names various portions of highway in honor of Kansans:

- Representative Robert G. (Bob) Bethell Interchange, at an interchange to be constructed at the junction of K-14 and 16th Road in Rice County, near Alden (Representative Bethell served in the House from 1999 until his death in 2012.);
- Sgt David Enzbrenner Memorial Highway, on K-7 from the north city limits of Atchison to the junction of K-7 with US-36 (Sergeant Enzbrenner, a member of

the Atchison Police Department for more than 20 years, was killed in the line of duty in Atchison in December 2011.);

- Pack St Clair Highway, on US-75 near Neodesha, from the southern interchange with US-400 to the northern interchange with US-400 (Mr. St. Clair is the founder of Cobalt Boats in Neodesha, a major employer in the area, and according to testimony is an industry and community leader.); the Purple Heart/Combat Wounded Veterans Highway designation is removed from this portion of US-75;
- Ancient Indian Traders Trail, on K-161 from US-36 north to the Nebraska line, in Cheyenne County (near the route of a trail used as a hunting, trading, and military route by Native Americans and others over a long period of time);
- Harper County Veterans Memorial Highway, on US-160 through Harper County, except for the portion between the intersection with K-14 near Harper and the intersection with K-2 south of Harper (The excluded portion portion of US-160 in Harper County that is excluded from this designation remains the SFC David R. Berry/Sgt WillSun M. Mock Memorial Highway.);
- Bonnie Huy Memorial Highway, on K-96 from I-135 to I-35, in Sedgwick County (Representative Huy served in the House from 2001 through 2006); and
- Bonnie Sharp Memorial Interchange, at the junction of I-635 and Metropolitan Avenue in Wyandotte County (Representative Sharp served in the House from 1996 through 2006.).

The bill establishes three provisions related to the signage for each of these highways and interchanges:

- Requiring the Secretary of Transportation to place suitable signs to indicate the designations;
- Precluding the signs from being erected until the Secretary has received sufficient moneys from gifts and donations to reimburse for the cost of placing the signs and an additional 50 percent of the initial cost to defray future maintenance or replacement of the signs; and
- Allowing the Secretary to accept and administer gifts and donations to aid in obtaining and installing suitable signs.

### **Registering Electric Vehicles; Sub. for HB 2451**

**Sub. for HB 2451** removes a separate vehicle registration category and a \$14 registration fee for electrically propelled motor vehicles. Instead, the registration fee for any electric passenger vehicle will be determined by the vehicle's weight, using the same weight categories as for other passenger vehicles; for all but the heaviest passenger vehicles, the fee is \$30. The change will become effective January 1, 2015.

### **Distinctive License Plates; Sub. for HB 2452**

**Sub. for HB 2452** makes various changes related to the availability of distinctive license plates.

The bill authorizes three new license plates to be issued after January 1, 2015:

- Donate Life, sponsored by the Midwest Transplant Network, for passenger vehicles, small trucks, and motorcycles;
- Kansas Horse Council, sponsored by that organization, for passenger vehicles, trailers, and small trucks; and
- Rotary International, sponsored by that organization, for passenger vehicles and small trucks.

Anyone who wishes to receive one of the license plates authorized by the bill will pay an annual royalty amount of at least \$25, but not more than \$100, for the use of the sponsoring organization's logo, in addition to other statutory license plate fees. Such payments can be made directly to the organization or through the county treasurer. The bill will require each sponsoring organization to pay the initial costs of developing the license plates.

The bill adds motorcycles to the types of vehicles for which a qualified person could obtain a disabled veteran license plate.

The bill permits the production of distinctive license plates for motorcycles at the request of the sponsoring organization for any distinctive license plate. The sponsoring organization requesting a distinctive license plate for motorcycles will be responsible for the cost of the initial production of the motorcycle license plate.

The bill also allows a member of the armed forces who is stationed in Kansas and eligible for a regular Kansas license plate, but who maintains official residency in another state, to be eligible for a distinctive license plate. Formerly, only residents of Kansas were eligible for distinctive license plates.

### **Authorizing Commercial Driver's License Skills Testing at Community and Technical Colleges; Senate Sub. for HB 2693**

**Senate Sub. for HB 2693** requires the Secretary of Revenue to authorize community colleges and technical colleges, upon request, to administer the skills tests required for a person to obtain a commercial driver's license. The bill also requires the Secretary to grant priority status to any community or technical college with a truck driver training course in place on July 1, 2014. The Secretary must authorize testing that complies with federal requirements of 49 CFR Part 383 in an agreement between the requesting community college or technical college and the State. The Secretary will be required to adopt rules and regulations to implement the testing procedure. The bill requires the Secretary to accept the results of a person's skills tests administered by either a community college or a technical college. Finally, the bill specifies that third-party driver's license examiners will not be required to be included within the classified service under the Kansas Civil Service Act.

### **Implement Dealer Transport of Implements of Husbandry; HB 2715**

**HB 2715** creates law related to transportation of farm implements by implement dealers on the highways. The bill defines an "implement dealer" as a person or business that buys,

sells, or services farm tractors, implements of husbandry, or other farm machinery in the regular course of business.

An implement dealer who obtains a permit for an oversize or overweight vehicle may move or transport farm tractors, implements of husbandry, combines, fertilizer dispensing equipment, or other farm machinery on certain highways in Kansas. The bill creates an annual permit available to an implement dealer and also specifies an implement dealer could use a single-trip permit for this purpose. Such movement is required to meet certain conditions related to load size, is restricted to daylight hours, and can not use any highway that is part of the National System of Interstate and Defense Highways, *i.e.*, U.S. and interstate highways. The bill allows the equipment or machinery to be moved on a trailer or semi-trailer, pinned to a truck or truck tractor and traveling on its own wheels, or under its own power.

The bill allows an implement dealer or the dealer's employees to move farm machinery when towing such machinery behind a farm tractor within a 100-mile radius of the implement dealer's place of business when both the farm tractor and the equipment or machinery are equipped with flashing lights on both the front and rear; any machinery designed for or normally moved at speeds less than 25 miles per hour is required to clearly display a slow-moving vehicle emblem.

The bill clarifies provisions related to permits for oversize or overweight vehicles operated on highways and states no special permit will be required of an implement dealer who has obtained an annual permit and follows the conditions noted above.

The bill adds farm tractors operated by an implement dealer or the dealer's employee to a list of vehicles exempt from the Uniform Commercial Driver's License Act when the farm tractor is moved or transported in accordance with the permit requirements in the new section of law. The bill also corrects and clarifies references to codes of military justice in an exception related to military vehicles.

#### **Definition of Tank Vehicle; HB 2724**

**HB 2724** amends the definition of "tank vehicle" in the Uniform Commercial Driver's License Act to conform to the definition in 49 CFR § 383.5, a federal rule and regulation related to commercial drivers' licenses. The change is expected to have no effect on which drivers will be required to have commercial drivers' licenses.

#### **Review of Eligibility for License Plates for People with Disabilities; HB 2727**

**HB 2727** replaces language requiring review every three years of eligibility for a special license plate or placard issued to a person with a disability or a person responsible for the transportation of a person with a disability. The new language requires the Secretary of Revenue to issue rules and regulations on eligibility determination that comply with federal requirements in 23 CFR § 1235.4, which includes a requirement for periodic renewal of placards.

## Insurance Company Process To Obtain a Salvage Title After Settlement; HB 2728

**HB 2728** allows an insurance company to apply to the Division of Vehicles for a salvage title 30 or more days after the company enters into a damage settlement agreement in which the owner agrees to transfer title if the insurance company is unable to obtain voluntary assignment of the title from the owner of the vehicle. The bill requires the application form to be accompanied by an affidavit stating the following:

- The insurance company is unable to obtain a transfer of title from the owner;
- There is evidence of the damage settlement;
- There are no liens on the vehicle or all liens have been released;
- The insurance company has physical possession of the vehicle; and
- The insurance company notified the owner, at the owner's last known address, 30 days prior to the notice of the intent to transfer and the owner has not delivered a written objection.

The bill also removes a requirement that three copies be prepared of any permit to allow the owner of a salvage vehicle to operate that vehicle on the highways and language related to distribution of the copies.

## VETERANS AND MILITARY

### **Military Honors Fund, Death Benefits, Disabled Veterans Preference, and Other Technical Adjustments to Legislation; SB 263**

**SB 263** establishes

- The Military Honors Funeral Fund in the State Treasury;
- An alternative death gratuity payment arrangement with the Kansas Adjutant General; and
- Preference in the State Use Law for disabled veterans.

The bill also makes technical adjustments to 2014 Sub. for HB 2681, which abolished the Kansas Commission on Veterans Affairs, replacing it with the Kansas Commission on Veterans Affairs Office, and to 2014 Senate Sub. for HB 2506 regarding school districts on military bases.

#### ***Military Honors Fund***

The Military Honors Funeral Fund is established, to be administered by the Adjutant General. Any gifts, grants, donations, and bequests for the purpose of providing military honors at funerals will be deposited in the new fund. Expenditures are subject to appropriations by the Legislature. Interest is credited to this fund.

#### ***Death Gratuity Payment***

The bill requires the Adjutant General to pay a death gratuity of \$100,000 for any eligible Kansas military service member during a federal government shutdown, beginning on or after January 1, 2015, if federal funds are not available. Funding for the alternative death gratuity payment will be loaned by the Pooled Money Investment Board to the Adjutant General. The Adjutant General is required to develop and implement procedures on or before January 1, 2015, to secure such federal reimbursements after the government reopens. The bill creates the Adjutant General Death Gratuity Payment Facilitation Fund in the State Treasury for these transactions.

#### ***State Use Law and Preference to Disabled Veterans***

The bill revises provisions of the State Use Law as it pertains to bidding preferences for state contracts, certified businesses, and procurement negotiating committees by adding definitions for “disabled veteran” and “disabled veteran business.”

The bill establishes a new preference for awarding state job or service contracts to disabled veteran businesses in Kansas. The Secretary of Administration will have the goal to award at least 3.0 percent of all state contracts to disabled veteran businesses. By October 1, 2015, the Secretary of Administration must file with the Kansas Commission on Veterans Affairs Office a report of the number of contracts awarded to disabled veteran businesses during FY

2015 and the number of such businesses that responded to state bids. “Disabled veteran” is defined as a person verified by the Kansas Commission on Veterans Affairs Office to have served in the armed forces of the United States and who is entitled to compensation for a service-connected disability or loss, or permanent loss of use of one or both feet or one or both hands, or for permanent visual impairment. “Disabled veteran business” means a business certified annually by the Department of Administration that is a sole proprietorship, partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, and is verified by the Kansas Commission on Veterans Affairs Office.

### ***Kansas Commission on Veterans Affairs Office***

Technical changes to 2014 Sub. for HB 2681 are included to correct the language which abolished the Kansas Commission on Veterans Affairs and created the Kansas Commission on Veterans Affairs Office.

### ***Education Funding***

Also included are changes that will allow school districts on military reservations in Kansas to receive school facilities weighting if the district commences operation of a new school facility in school year 2013-2014 or 2014-2015, the construction of such facility was financed primarily with federal funds, and the school is located on a military reservation. School facilities weighting may be assigned to enrollment of the district only in the school year in which operation of a new school facility is commenced and in the next succeeding year.

### **Kansas Commission on Veterans Affairs Office; Sub. for HB 2681**

**Sub. for HB 2681** abolishes the Kansas Commission on Veterans Affairs (KCVA), creates the Kansas Commission on Veterans Affairs Office (KCVAO) and the Veterans Claims Assistance Program, and makes other changes relating to the transfer and establishment of powers, duties, and functions.

### ***Agency Organization***

Under the provisions of the bill, all powers, duties, and functions are transferred to the KCVAO effective July 1, 2014. The KCVAO is responsible for providing services and support to veterans and their relatives and dependents, along with managing and operating the Kansas Soldiers’ Home and the Kansas Veterans’ Home.

The KCVAO is administered by a Director appointed by the Governor and subject to confirmation by the Kansas Senate. Additionally, the Director is required to be a veteran. The bill also authorizes the Director to appoint and oversee, subject to approval by the Governor, the following:

- Superintendent of the Kansas Soldiers’ Home;
- Superintendent of the Kansas Veterans’ Home; and
- Deputy Director of Veterans Services.

### ***Annual Reporting Requirement***

The bill requires the Director of the KCVAO to annually prepare and submit a written report to both the House Committee on Veterans, Military and Homeland Security and the Office of the Governor. The first report is to be submitted on or before the first day of the 2015 Legislative Session. Under the provisions of the bill, the report will include the following:

- Progress made by the KCVAO and its director in response to recommendations made by the Legislative Division of Post Audit in the preceding fiscal year;
- Information on the current financial procedures implemented by the KCVAO at the Kansas Veterans' Home and the Kansas Soldiers' Home;
- Information on the current residential care services provided for veterans at both facilities; and
- Recommendations for any necessary legislation required to ensure the State of Kansas is providing the necessary services and care for Kansas veterans.

### ***Veterans Claims Assistance Program***

The bill abolishes the Veterans Claims Assistance Advisory Board and replaces the Advisory Board with the Veterans Claims Assistance Program (VCAP). The purposes of the new program include the following:

- Improve the coordination of veterans benefits counseling in Kansas;
- Ensure taxpayer dollars are used efficiently and effectively;
- Ensure every veteran is served and receives the necessary counseling and assistance; and
- Advise the Director of the KCVAO on all veterans services, including the VCAP.

The Deputy Director of Veterans Services will be a permanent member of the VCAP and serve as chairperson of its new advisory board.

### ***Veterans Claims Assistance Program Advisory Board***

The Veterans Claims Assistance Program Advisory Board advises the Director of the KCVAO about veterans' services, including the VCAP. The new board replaces the Veterans Claims Assistance Advisory Board. The new advisory board consists of at least seven members as follows:

- The Deputy Director of Veterans Services will be a permanent member of the advisory board and will serve as chairperson of the advisory board;

- A member of each veterans service organization participating in the grant program;
- Two representatives appointed by the Governor. Both appointees must be veterans. Also, any veterans service organization may submit a list of three names for consideration by the Governor and the Governor must consider each list and may appoint an individual from among those listed;
- Two legislators, one from each house, with the Speaker of the House and the President of the Senate each appointing a member. Under the provisions of the bill, one legislator must be a member of the Democratic Party and one legislator must be a member of the Republican Party.

Additionally, if there were fewer than two veterans service organizations participating in the grant program, the Governor will be required to appoint the remaining members of the advisory board; however, appointments under this provision would not be allowed to exceed two members.

### ***Veterans' Funds***

The bill eliminates a requirement that any member's (veteran's) funds in excess of \$5,000 be deposited with the State Treasurer for safekeeping. Members are permitted to use those funds for their personal use, benefit, and burial. Additionally, the bill requires the Director of the KCVAO to designate an individual at both the Kansas Soldiers' Home and the Kansas Veterans' Home to oversee the funds.

## APPROPRIATIONS BILLS

**Senate Sub. for Sub. for HB 2231, Senate Sub. for HB 2506, and Senate Sub. for HB 2338** includes funding for claims against the state, FY 2014 and FY 2015 supplemental expenditures for most state agencies, and FY 2014 and FY 2015 capital improvements for selected state agencies.

## TECHNICAL BILLS

- SB 254** This bill amends statutes dealing with the State Children's Health Insurance Program and the Medicaid Estate Recovery Program to clarify the operational and rules and regulations authority of the Secretary of Health and Environment over these programs.
- HB 2143** This bill reconciles amendments to statutes that have been amended more than once during the 2014 Legislative Session and previous sessions. The bill combines non-contradictory amendments from enacted legislation to produce one version of the statutes.
- HB 2152** The bill repeals the Uniform Land Sales Practices Act. In addition, the bill makes technical changes to a continuing statute to reflect the repeal of the Act.
- HB 2480** The bill repeals obsolete statutes regarding TeleKansas I.
- HB 2564** This bill changes an incorrect statutory reference for the waiting period after retirement from 30 to 60 days for certain members of the Kansas Public Employees Retirement System (KPERS) tier 2 plan, the separation period required before being eligible to return to work for any KPERS participating employer. (All other KPERS statutes were changed in 2009 when the waiting period originally was modified.)

## BILLS VETOED BY THE GOVERNOR

<b>SB 99</b>	This bill would have increased the threshold, from \$100 to \$500 in any calendar year, below which a person spending money on activity that meets the definition of “lobbying” would not be required to register as a lobbyist. The exemption of personal travel and subsistence expenses from this threshold amount would have remained intact.
<b>HB 2296</b>	This bill would have amended statutes concerning allowable uses and disposition of campaign funds, lobbyist and candidate reporting requirements, and disclosure requirements for certain contributions. Among the amendments, the bill would have amended the Campaign Finance Act to explicitly authorize campaign funds to be used for donations to any 501(c)(3) tax exempt organization or religious organization. Additionally, the bill would have increased the amount that triggers whether a candidate may file an affidavit instead of a detailed report of campaign contributions or expenditures and deleted a requirement to identify the industry of a contributor of more than \$150.
<b>Senate Sub. for Sub. for HB 2231</b>	This bill includes funding for claims against the state, Fiscal Year (FY) 2014 and FY 2015 supplemental expenditures for most state agencies, and FY 2014 and FY 2015 capital improvements for selected state agencies. The bill contains the following line item vetoes.
Kansas Board of Barbering	(Line item) <b>Salary Limitation</b> - Sections 14(c) and 15(c) would have placed a salary cap or limit on the Board of Barbering salaries for FY 2014 and FY 2015.
Kansas Public Employees Retirement System	(Line Item) <b>Transfer of Tobacco Settlement Funds</b> – Section 50(b) would have transferred \$5.0 million from the Kansas Endowment for Youth Fund into the State General Fund for FY 2015.
Department of Administration	(Line Item) <b>Lapse of State General Fund Budget Authority</b> - Section 52(f) would have lapsed \$189,835 from the State General Fund in the Department of Administration in FY 2014 for the Director position in the Division of the Budget which was vacant for a period of time.
Department for Aging and Disability Services	(Line Item) <b>Lapse of State Hospital Funds</b> - Sections 71(g) and 71(h) would have lapsed \$3,262,243 from the State General Fund in the Larned State Hospital for operating expenditures in FY 2014 and \$1,014,549 from the State General Fund in the Osawatomie State Hospital for operating expenditures in FY 2014.
State Fair Board	(Line Item) <b>State Funds for Capital Improvements</b> - Section 100(c) would have appropriated \$400,000 from the State General fund for capital improvement projects for FY 2015.



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