KANSAS LEGISLATURE

2024 Summary of Legislation

2024 Special Session Summary of Legislation

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July 2024

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Providing objective research and fiscal analysis for the Kansas Legislature

INTRODUCTION

This publication includes summaries of the legislation enacted by the 2024 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 366.

During the 2024 Session, 605 bills were introduced: 233 in the Senate and 372 in the House. In addition, 284 Senate bills and 371 House bills were carried over from the 2023 Session, for a grand total of 1,260 bills that were alive during the 2024 Session. Of these 1,260 bills, 111 (8.8 percent) became law: 47 Senate bills and 64 House bills. Further, of the 111 bills that became law, 103 (92.8 percent) were introduced by committees and 8 (7.2 percent) were introduced by individual legislators.

The Governor vetoed 21 bills and 44 line items in appropriations bills. Fourteen of the bill vetoes and 37 line item vetoes were sustained. No bills will be carried over to the 2025 Session of the Legislature.

[*Note:* A separate summary of legislation for the special session of the 2024 Legislature is appended to this publication.]

Table of Contents

ABORTION....1
AGRICULTURE AND NATURAL RESOURCES....6
ALCOHOL AND DRUGS....16
BUSINESS, COMMERCE, AND LABOR....19
CHILDREN AND YOUTH....34
COURTS....57
CRIMES AND CRIMINAL MATTERS....66
EDUCATION....79
FEDERAL AND STATE AFFAIRS....119
FINANCIAL INSTITUTIONS....120
INSURANCE....198
JUDICIARY....217
LOCAL GOVERNMENT....223
PROFESSIONS AND OCCUPATIONS....228
PUBLIC SAFETY....262
RETIREMENT....272
STATE FINANCES....279
STATE GOVERNMENT....288
TAXATION....306
TRANSPORTATION AND MOTOR VEHICLES....323
UTILITIES....329
VETERANS AND MILITARY....340
WATER....364
APPROPRIATION BILLS....365
TECHNICAL BILLS....366
BILLS VETOED BY THE GOVERNOR....367
SUBJECT INDEX....376
NUMERICAL INDEX OF BILLS....391

ABORTION

Coercion to Obtain an Abortion; Senate Sub. for HB 2436

Senate Sub. for HB 2436 creates the crime of coercion to obtain an abortion and creates a special sentencing rule that will apply to persons convicted of certain crimes against a victim with the intent to compel an abortion.

Coercion to Obtain an Abortion

The bill creates the crime of coercion to obtain an abortion. The crime is defined as engaging in coercion with both the knowledge a woman is pregnant and the intent to compel such woman to obtain an abortion when the woman has expressed her desire to not obtain an abortion.

Penalty

The bill classifies the offense of coercion to obtain an abortion as a nongrid person felony with a sentence of between 30 days and 1 year imprisonment and a fine of $500 to $5,000.

Increased Penalty

The penalty for the coercion to obtain an abortion offense will be raised to a sentence between 90 days and 1 year imprisonment and a fine between $1,000 and $10,000 if:

- The offense was committed by the father or putative father of the unborn child who is 18 years of age or older at the time of the offense; and
- The offense is committed against a pregnant woman who is under the age of 18.

Definitions

The bill defines the following terms:

- "Abortion" means the same as defined in public health law;
- "Coercion" means any of the following:
    - Threatening to harm or physically restrain an individual or the creation or execution of any scheme, plan, or pattern intended to cause an individual to believe that failure to perform an act would result in financial harm to, or physical restraint of, an individual;
    - Abusing or threatening abuse of the legal system including threats of arrest or deportation without regard to whether the individual being threatened is subject to arrest or deportation under state or federal law;

- Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document or any other actual or purported government identification document from an individual without regard to whether the documents are fraudulent or fraudulently obtained; or
- Facilitating or controlling an individual's access to a controlled substance, as defined in public health law, and amendments thereto, other than for a legitimate medical purpose;

- "Financial harm" means any of the following:
  - Any loan, promissory note, or other credit instrument that provides for interest at a rate that is prohibited by state or federal law;
  - Any employment contract or other agreement for the payment of wages that violates the Wage Payment Act;
  - Extortion as defined in the Kansas Criminal Code; or
  - Any other adverse financial consequence; and

- "Unborn child" means a living individual organism of the species *Homo sapiens*, in utero, at any stage of gestation from fertilization to birth.

Special Sentencing Rule

The bill creates a special sentencing rule that will apply when a trier of fact makes a finding beyond a reasonable doubt that an offender committed certain acts, enumerated by the bill, including an attempt or conspiracy of such act with knowledge that a woman is pregnant and with intent that the act will compel the woman to obtain an abortion, despite the woman having expressed a desire not to obtain an abortion.

The bill will apply the special sentencing rule to the following crimes and other offenses as defined in the statutes:

- Kidnapping;
- Interference with parental custody;
- Criminal restraint;
- Assault;
- Battery;
- Domestic battery;
- Criminal threat;
- Human trafficking;
- Stalking;
- Blackmail;
- Endangerment;
- Rape;
- Criminal sodomy;

- Sexual battery;
- Indecent liberties with a child;
- Unlawful voluntary sexual relations;
- Indecent solicitation of a child;
- Electronic solicitation;
- Sexual exploitation of a child;
- Sexual extortion;
- Endangering a child;
- Abuse of a child;
- Incest; and
- Abandonment of a child.

Enforcement of Penalty

For offenses classified in severity level 2 through 10, the bill enhances the penalty one severity level above the severity level classification assigned in law.

For offenses classified in severity level 1, the bill requires a penalty of imprisonment for life, without eligibility for probation or suspension, modification, or reduction of the sentence. Further, the bill specifies the offender will not be eligible for parole prior to serving 25 years' imprisonment and that 25 years imprisonment term could not be reduced by the application of good time credits. However, if the offender's criminal history classification means the offense would carry a penalty of presumptive imprisonment of a term to exceed 300 months, the offender will be required to serve a mandatory minimum term of the applicable number of months under the sentencing grid.

[*Note:* Under continuing law, Kansas' sentencing guidelines for nondrug crimes utilize a grid containing the crime severity level (1 to 5, 1 being the highest severity level) and the offender's criminal history score (A to I, A being the highest criminal history score) to determine the presumptive sentence for an offense.]

The bill specifies the escalated sentence will not be considered a departure or subject to appeal.

Abortion Reporting; HB 2749

HB 2749 amends reporting requirements for abortions performed in Kansas.

Reporting Requirements

The bill requires a written report of pregnancies lawfully terminated to be submitted by medical care facilities and persons licensed to practice medicine and surgery to the Secretary of Health and Environment (Secretary) on a biannual, rather than annual, basis.

Reporting Questions

The bill requires, except in the case of a medical emergency, each patient to be asked, prior to the termination of a pregnancy, to indicate the most important factor regarding the patient's reason for deciding to seek an abortion. The bill provides the following reasons as options to be offered:

- Having a baby would interfere with the patient's education, employment, or career;
- The patient cannot afford a child;
- The patient already has enough, or too many, children;
- The patient's husband or partner is abusive to the patient or their children;
- The patient's husband or partner wants the patient to have an abortion;
- The patient does not have enough support from family or others to raise a child;
- The pregnancy is the result of rape;
- The pregnancy is the result of incest;
- The pregnancy threatens the patient's physical health;
- The pregnancy threatens the patient's mental or emotional health; or
- The child would have a disability.

If the patient declines to answer, that response must be recorded.

The bill requires each report to include, for the period of time covered by the report, the number of times each of the reasons was described as the most important and the number of times a patient seeking an abortion was asked about the reasons and declined to answer.

Each report must also include:

- The patient's age in years on the patient's last birthday;
- The patient's marital status at the time of the abortion;
- The state or U.S. territory of residence of the patient or, if the patient is not a resident of the United States, the patient's country of residence;
- The patient's race and, if applicable, the Hispanic origin of the patient;
- The highest level of education completed by the patient;
- Whether, in the 30 days prior to the abortion, the patient received services, financial assistance (excluding financial assistance in obtaining an abortion), or other assistance from a nonprofit organization that supports pregnant women;
- Whether the patient reported having experienced domestic violence in the 12 months prior to the abortion;

- Whether the patient is living in a place that the patient considers to be safe, stable, and affordable;

- Whether a report of physical, mental or emotional abuse, or neglect was made where the patient was the victim; and

- The method by which the abortion was performed on the patient.

Confidentiality and Disclosure

The bill extends the expiration of provisions related to confidentiality and disclosure of specified information obtained by the Secretary regarding abortion by one year, to July 1, 2029, unless the Legislature reviews and reenacts the provisions prior to that date.

Kansas Department of Health and Environment Reporting

The bill requires the public report on abortions performed in Kansas issued by the Secretary to be released on a biannual basis. The bill also requires the report to be issued no later than 30 days after the end of the reporting period for the information contained in the report.

Severability

The provisions of the bill are severable; if any provision, phrase, or clause or its application to any person or circumstance is found to be invalid, the remaining provisions, phrases, or clauses will remain effective.

Underground Storage Tank Operating Permits; SB 336

SB 336 removes the requirement for underground storage operating permits to be obtained or renewed annually and repeals provisions of the Kansas Storage Tank Act that are no longer in use.

Protection of Agricultural and Research Facilities; Livestock Branding; Senate Sub. for HB 2047

Senate Sub. for HB 2047 amends the Farm Animal and Field Crop and Research Facilities Protection Act, amends the process for applying for and registering a livestock brand with the State, and increases the fee limitation related to livestock brand application, registration, and renewal.

Farm Animal and Field Crop and Research Facilities Protection Act

Prohibition on Entering or Remaining in Facilities and Areas; Flying an Aircraft

The bill prohibits a person from entering or remaining upon or in any animal facility or field crop production area of a product development program in conjunction or coordination with a private research facility, a university, or any federal, state, or local government entity without the consent of the owner.

The prohibition includes flying an aircraft within the airspace directly above the animal facility or production area but below the minimum safe altitude, as defined in federal general operating and flight rules (14 CFR § 91.119(c)) as in effect on July 1, 2024.

Prohibition on False Statements

The bill prohibits a person from knowingly making false statements on an employment application in order to gain access to an animal facility or field crop production area of a product development program in conjunction or coordinating with a private research facility, a university, or any federal, state, or governmental agency.

Criminal Penalties

The bill clarifies that violations of the Farm Animal and Field Crop and Research Facilities Protection Act will be a:

- Class A nonperson misdemeanor;
- Severity level 9 nonperson felony, if property damaged or destroyed is valued at more than $1,000 but less than $25,000; or

- Severity level 7 nonperson felony, if property damaged or destroyed is valued at more than $25,000.

Definitions

The bill adds a definition for "aircraft" that is the same as the definition in federal aviation regulations (14 CFR § 1.1.) The bill also removes the definitions of "deprive," "effective consent," and "possession."

Livestock Branding

[*Note:* Livestock brands must be registered with the Kansas Department of Agriculture (KDA) before use. They may be used on cattle, horses, mules, and asses (statutory term) and are designed using approved characters that are registered to be used on one of six locations on an animal: left or right hip, left or right rib, or left or right shoulder. The first laws requiring livestock brands to be registered with the State were enacted in 1939.]

The bill requires a separate application and registration fee for each brand to be registered or approved.

Upon application for a brand, the bill requires the Animal Health Commissioner (Commissioner) and the KDA to determine whether the brand is available for use and registration and requires the registrant, within 60 days of the notice of approval being sent by the Commissioner, to remit the brand registration fee. Upon approval, a certificate of brand title will be provided upon payment of the brand registration fee. The bill prohibits the use of a brand if a certificate of brand title has not been issued, and any such use will be subject to penalties as provided in KSA 47-421 and amendments thereto.

In continuing law, the cap on the brand registration fee is $55. The bill states that in no case will the brand renewal fee or the total of the brand application fee and registration fee exceed $100. If the fee is not paid as required by the bill, the Commissioner may deny the application.

Once approved, a brand registration is recorded for a five-year period, at which time a renewal is required. Upon the expiration of the recording period, the bill requires each person wanting to renew their brand certificate title to remit a renewal fee to the Commissioner.

The bill clarifies that the use of a forfeited brand is unlawful and will be subject to penalties as provided in KSA 47-421 and amendments thereto.

Kansas Agricultural Remediation Fund; HB 2477

HB 2477 makes changes to the Remediation Reimbursement Program (Program) that provides remediation funding from the Kansas Agricultural Remediation Fund (Fund). [*Note:* The Program was established by the Legislature to provide financial support to eligible persons through reimbursement of expenses incurred during the performance of remediation activities for releases of agricultural chemicals. The Fund receives no state funding and is funded by environmental assessment fees paid by the industry.]

Reimbursement Cap Limits

The bill clarifies that an eligible person may receive reimbursement per remediation site and evidenced by receipts for any eligible corrective action costs, but the total reimbursement cannot exceed $300,000, an increase from $200,000.

The bill states that if an eligible person has paid at least $2,000, an increase from $1,000, for eligible corrective action costs at a site, reimbursement may be received in an amount equal to:

- 90 percent of total eligible corrective action costs greater than $2,000 until the person has received $100,000; plus

- Additional reimbursement in an amount equal to 80 percent of additional total eligible corrective action costs until the person has received an additional $200,000 in reimbursement.

The total reimbursement amount for any one remediation site cannot exceed $300,000, unless the Kansas Agricultural Remediation Board (Board) sets forth a different amount that is less than or equal to $300,000.

The bill removes language regarding reimbursement if both a buyer and seller or a lessee and lessor are jointly responsible for remediation on a property.

Kansas Agricultural Remediation Fund Expenditure Limitation

The bill increases the limitation of expenditures from the Fund for administrative expenses of the Board from $150,000 to $175,000 in any fiscal year.

Underground Injection Control Wells; HB 2525

HB 2525 directs the Secretary of Health and Environment (Secretary) to deposit the following fees into the Water Program Management Fund (Water Fund):

- Water well contractor application and license fees;

- Class 1 and Class 5 underground injection control (UIC) well permitting, monitoring, testing, inspection, and regulation fees; and

- Fees, charges, or penalties from the certification of operators for water supply system and wastewater treatment facilities.

The bill authorizes the Secretary to remit revenue from the fees to the State Treasurer who, upon receipt of the funds, will deposit the entirety of the funds to the credit of the Water Fund, rather than to the State General Fund.

The bill requires the Secretary to adopt rules and regulations to establish fees for:

- The permitting, monitoring, testing, inspecting, and regulating of Class 1 UIC wells. The fees cannot exceed the following amounts:
    - $6,500 per active, hazardous waste injection well;
    - $4,500 per active, non-hazardous waste injection well; or
    - $1,000 per any hazardous or non-hazardous waste injection well in monitoring or inactive status;

    The bill requires the Secretary to provide for a reduction in such fees for facilities already subject to these fees; and

- The permitting, monitoring, testing, inspecting, and regulating of Class 5 UIC wells, which cannot exceed $2,000 per well.

The bill prohibits establishing such fees for small-capacity, sanitary septic systems, including single-family residential septic systems and non-residential septic systems that are used solely for sanitary waste.

The bill authorizes the Secretary to remit revenue from the new fees to the State Treasurer who, upon receipt of the funds, will deposit the entirety of the funds to the credit of the Subsurface Hydrocarbon Storage Fund.

Changes to the Kansas Wildlife and Parks Commission; HB 2530

HB 2530 makes changes to the Kansas Wildlife and Parks Commission (Commission).

Commission Membership Appointments

The bill requires the seven members of the Commission to be residents of Kansas who are appointed by the following appointing authorities for the Fish and Wildlife Administration regions (Region) in the state:

- One at-large member appointed by the Governor;
- One member appointed by the Governor who will represent Region One;
- One member appointed by the Governor who will represent Region Two;
- One member appointed by the Governor who will represent Region Five;
- One member appointed by the Speaker of the House (Speaker) who will represent Region Four;
- One member appointed by the President of the Senate (President) who will represent Region Three; and

- One at-large member appointed by the Attorney General.

The bill removes the Governor's authority to appoint all seven members of the Commission, one member from each Region in the state.

On July 1, 2024, each appointing authority may appoint a new member to replace the current incumbent member; or, the incumbent member may serve for the remainder of their term.

The bill prohibits each appointing authority from appointing a controlled shooting area licensee or any employee of the licensee, or any persons who provide hunting outfitting services or hunting guide services as members of the Commission.

Commission Terms

The bill authorizes the four members appointed by the Governor to serve four-year terms. The three members appointed by the Speaker, President, and Attorney General will serve initial two-year terms and then four-year terms thereafter.

Commission Action

The bill requires the Commission to preserve the rights guaranteed by Section 21 of the Bill of Rights of the *Kansas Constitution* regarding the right of the public to hunt, fish, and trap wildlife.

Commission Chairperson

The bill authorizes the Commission members to elect a chairperson for a term not to exceed two years and removes the Governor's authority to appoint the Chairperson without a term limit. In the event of a vacancy of the chairperson, the Commission members will elect a successor for the remainder of the chairperson's term. The bill authorizes the Commission to elect a new chairperson upon the expiration of the Chairperson's two-year term.

Conforming Amendments

To reflect the appointment of Commission members by entities other than the Governor, the bill removes the term "governor" throughout the bill and replaces it with the term "each respective appointing authority" or "respective appointing authority."

Kansas Pesticide Law and Kansas Chemigation Safety Law; HB 2607

HB 2607 amends and updates the Kansas Pesticide Law (Pesticide Law) and Kansas Chemigation Safety Law (Chemigation Law).

Supervision and Training; Rules and Regulations

The bill requires pesticide business licensees and private applicators to provide appropriate supervision and training for uncertified applicators who apply restricted use pesticides.

The bill prohibits uncertified applicators from applying any restricted use pesticide unless the application is supervised by a certified applicator who is certified to apply restricted use pesticides for the control of pests in the category or subcategory for which the pesticide application is made.

Uncertified applicators are required to have received training in each of the subjects included in the commercial applicator's examination, listed in KSA 2-2443a.

Each pesticide business licensee is required to maintain records that verify each uncertified applicator employed by the business has been properly trained.

The bill authorizes the Secretary of Agriculture (Secretary) to adopt rules and regulations for the following purposes:

- To prescribe requirements for appropriate supervision and training of uncertified applicators by certified applicators; and

- To prescribe record requirements, including, but not limited to, training information that pesticide business licensees are required to maintain. The bill requires the records to be:

    - Maintained for three years after the training has been given; and
    - Available upon request of the Secretary or the Secretary's designee.

This section of the bill is part of and supplemental to the Pesticide Law.

Definitions

The bill defines "governmental agency" or "government agency" for purposes of the Kansas Pesticide Law to mean any officer, department, bureau, division, board, authority, agency, commission, or institution of a local, state, or federal government when acting to enforce or administer any law, regulation, or ordinance, or otherwise acting in its official capacity.

Financial Responsibility

The bill clarifies the requirements of proof of financial responsibility for a pesticide business license. An applicant for a license is required to file a surety bond or certificate of liability insurance instead of letters of credit or proof of an escrow account. The bill also clarifies that a government agency is not required to furnish proof of financial responsibility during the registration process.

Government Agency

The bill requires a government agency to register for pesticide applications of sodium cyanide predator control pesticides, and applicators of these pesticides are required to be certified. [*Note:* According to the U.S. Environmental Protection Agency (EPA), sodium cyanide is a single-dose poison used on pastures, range, and forest land to control coyote, red fox, grey fox, and wild dog populations that prey upon, or are likely to prey upon, livestock, poultry, or endangered species.]

Registered Pest Control Technicians

The bill allows uncertified applicators to apply general use pesticides when a certified applicator or registered pest control technician is physically present. The bill prohibits registered pest control technicians from supervising the use of, or applying, any restricted use pesticide unless supervised by a commercial applicator who is certified to apply restricted use pesticides for pest control in the category or subcategory for which the application is made.

The bill authorizes the Secretary to adopt rules and regulations to prescribe requirements concerning the direct supervision of registered pest control technicians by certified applicators.

Civil Penalties

Pesticide Business Licensee and Pesticide Dealer

The bill clarifies the civil penalties that could be imposed by the Secretary upon a finding that a pesticide business licensee or pesticide dealer has violated the Pesticide Law or rules and regulations. In the case of a continuing violation, the bill caps the maximum civil penalty at $10,000.

Individual Person (Non-business, Non-dealer)

The bill states that except as provided under this section, any person who holds a license, certification, registration, or permit, or is required to hold such pursuant to the Pesticide Law, and violates any provision of the Pesticide Law or any adopted rules and regulations could incur a civil penalty in an amount set through rules and regulations adopted by the Secretary.

The civil penalty will be an amount no less than $100 and no more than $500 for each violation. In the case of a continuing violation, every day the violation continues could be deemed a separate violation, and the maximum civil penalty would be $2,500.

Any Pesticide Business Licensee, Pesticide Dealer, or Person

The bill clarifies the authority of the Secretary to impose a civil penalty upon a finding that a pesticide business licensee, pesticide dealer, or any person has violated any provision of the Pesticide Law or any rules and regulations adopted by the Secretary.

Commercial Applicators Certification

The bill gives discretion to the Secretary to allow a certified commercial applicator to obtain an additional certification in another category or subcategory upon:

- Submission of a complete and accurate application;
- Payment of a $45 fee; and
- Completion of a training course approved by the Secretary to authorize the additional certification.

The bill sunsets this provision of the bill on December 31, 2028.

The bill also states commercial applicator certification would not allow applications in the category of sodium cyanide predator control, with the exception that the Secretary may allow government agencies to obtain certification in that category.

Certification and License Categories

The bill adds sodium cyanide predator control, aerial pest control, and soil fumigation to the categories of qualification for certification and licensing.

Private Applicator Certification

The bill requires individuals applying for certification to apply restricted use pesticides to be at least 18 years old. The bill clarifies a private applicator certification may only be used for the purpose of producing any agricultural commodity on property owned or rented by the individual or their employer.

Private applicator certification will not authorize applications in the following categories:

- Sodium cyanide predator control;
- Non-soil fumigation;
- Aerial application; or
- Soil fumigation.

Private applicators may obtain commercial applicator certification to make applications in the above categories except for sodium cyanide predator control. The bill also prohibits application of sodium fluoroacetate predator control. [*Note:* Sodium fluoroacetate, known as Compound 1080, may not be used in the state unless authorized by a permit issued under the authority of the Secretary of Wildlife and Parks. It is non-selective, meaning it is toxic to all mammals.]

The bill requires a certified private applicator to pass a written examination. The bill authorizes the Secretary to adopt rules and regulations to establish a training program as an alternative to the written examination.

In lieu of a private applicator examination, the Secretary may accept attendance and satisfactory completion of a training course approved by the Secretary. If certification is renewed by training, the renewal application form may be accompanied by a recertification-by-training fee of $50, unless established at a lower amount by the Secretary through rules and regulations.

Certification renewal may occur every five years by retaking the private applicator examination or attending recertification training.

The bill removes the requirement the Secretary offer a correspondence course for a private applicator's certification.

The bill authorizes restricted use pesticides to be used only by a certified applicator or by an uncertified applicator working under the direct supervision of a certified applicator. No certification is required for individuals operating under the direct supervision of a certified private applicator, but the supervised applicators must be at least 18 years of age. If the uncertified applicator is directly supervised by a relative or family member and is applying restricted use pesticides for the purpose of producing any agricultural commodity on property owned or leased by the individual or the individual's relative or family member, then the supervised applicator must be at least 16 years of age.

The bill clarifies that private applicator certification may be issued to individuals who have complied with all other applicable requirements; those individuals are subject to any testing or initial training fee established in rules and regulations adopted by the Secretary and could not exceed $75.

Secretary's Authority

The bill removes the authority of the Secretary to deny, suspend, revoke, or modify any license, registration, permit, or certificate issued based on conviction, or a guilty plea, of an applicant, licensee, registrant, permit holder, or certificate holder to a non-Pesticide Law felony under state law or laws of the United States. Continuing law allows the Secretary to take action for Pesticide Law violations.

Statement of Services; Record Retention

Continuing law requires an applicator to present a statement of services to each customer. The bill adds information to be included in the statement of services.

The bill adds requirements for retention of government agency records regarding pesticide application. The bill requires each government agency to maintain records relating to each application of pesticide made by the government agency. The records must be provided to the Secretary upon request.

The bill requires the records to include:

- The name, complete street address, and registration number of the government agency;

- The pest or pests to be controlled, which may be stated in general terms;

- The pesticide to be used, including the quantity applied and total area where the pesticide is applied;
- The concentration or rate of application, when applicable;
- The date, location, and start and end times of the application of the pesticide;
- The signature and applicator certification number of the individual who performed the pest control service or the application of pesticides;
- The signature and applicator certification number of the individual who supervised the performance of the pest control service or the application of pesticides, when applicable;
- The wind direction and velocity, when applicable;
- The complete product name of the pesticide as the name appears on the label; and
- The pesticide's EPA registration number.

In addition, the bill requires pesticide business licensees and government agencies to create or verify the existence of records documenting that each uncertified applicator has the necessary qualifications as set forth in rules and regulations adopted by the Secretary.

Criminal Penalties

The bill states any person who violates Pesticide Law and Chemigation Law is guilty of a class A misdemeanor.

ALCOHOL AND DRUGS

Amendments to the Kansas Fights Addiction Act; SB 307

SB 307 amends the Kansas Fights Addiction Act to include for-profit private entities in the definition of "qualified applicant" and authorize members of the Kansas Fights Addiction Grant Review Board (Board) to receive certain compensation for attending meetings.

Qualified Applicants

The bill adds for-profit private entities to the definition of "qualified applicants" that may apply for grants from the Kansas Fight Addiction Fund for projects and activities that prevent, reduce, treat, or mitigate the effect of substance abuse and addiction. Grant applications from these entities are subject to approval by the Board.

Board Member Compensation

The bill authorizes members of the Board to be paid subsistence allowances, mileage, and other expenses when attending meetings of the Board after January 8, 2024.

Microbrewery Self-distribution; Senate Sub. for HB 2124

Senate Sub. for HB 2124 amends law pertaining to microbreweries. Among other changes, the bill permits microbreweries to self-distribute beer and hard cider up to certain limits, lowers the number of barrels per year a microbrewery may manufacture and store, and requires a study and report on licensed microbrewery compliance with state laws and rules and regulations regarding the collection and remittance of alcoholic liquor enforcement and gallonage taxes.

Study on Microbrewery Compliance

The bill directs the Secretary of Revenue (Secretary) and the Director of the Department of Revenue's Division of Alcoholic Beverage Control (ABC) to each:

- Conduct a compliance study on licensed microbrewery compliance with state laws and rules and regulations regarding the collection and remittance of:
    - Alcoholic liquor enforcement taxes (Secretary);
    - Alcoholic liquor gallonage taxes (Director of ABC); and

- On or before January 15, 2025, prepare and submit a report to the Governor and the Legislature on the findings of such study, including any recommendations regarding collection and remittance, monitoring, and ensuring compliance with applicable laws and rules and regulations.

These provisions expire on July 1, 2025.

Microbrewery Licenses

Annual Barrel Limit

The bill lowers the number of barrels of beer per calendar year a microbrewery licensee can manufacture and store from 60,000 barrels to 30,000 barrels. [*Note:* Continuing law provides that a microbrewery licensee may manufacture and store up to 100,000 gallons of hard cider during the calendar year.]

Self-distribution

Under the bill, a microbrewery licensee will be allowed to sell beer and hard cider manufactured by such licensee to licensed beer and wine distributors, retailers, public venues, clubs, drinking establishments, caterers, and temporary permit holders. The bill limits the total annual sales to:

- 1,000 barrels of beer; and
- 3,000 gallons of hard cider.

The bill also allows a microbrewery licensee to sell beer and hard cider manufactured by the licensee both on the licensed premises and off the licensed premises at special events monitored and regulated by the ABC. [*Note:* This is similar to a provision applicable to farm wineries under KSA 41-308a.]

Ownership Interest

The bill permits a microbrewery or an owner, officer, stockholder, or director of a microbrewery to have an interest in a licensed club, drinking establishment, or caterer, and the limit on total annual sales will not apply to the distribution of beer or hard cider by a microbrewery licensee to either:

- A drinking establishment or caterer licensed under the Club and Drinking Establishment Act in which such microbrewery licensee holds a 25.0 percent or greater ownership interest; or

- Another microbrewery licensee or a licensed microbrewery packaging and warehouse facility in which such microbrewery licensee holds a 25.0 percent or greater ownership interest.

Distributor Requirements

The bill applies requirements for distributors under continuing law to microbreweries and also requires the Secretary to include microbreweries in certain rules and regulations applicable to manufacturers or distributors.

The bill specifies that a microbrewery is prohibited from selling or attempting to sell any beer or hard cider within the state except to retailers licensed under the Kansas Liquor Control

Act or the Kansas Cereal Malt Beverage Act or a licensee under the Club and Drinking Establishment Act. The bill requires such sales to be made within a geographic territory described in a notice filed with the Director of ABC.

The bill permits a distributor or microbrewery to buy back or exchange any beer or cereal malt beverage (CMB) within 30 days of its expiration date at the original sales price.

Temporary Permits

The bill authorizes a temporary permit holder to offer for sale, sell, and serve beer or hard cider that is:

- Manufactured by a microbrewery licensee; and

- Purchased or acquired from a microbrewery licensee for consumption on licensed or unlicensed premises, or other premises subject to a separate temporary permit that may be open to the public and subject to terms of such permit.

Drinking Establishments

The bill allows drinking establishments to acquire and sell beer from a microbrewery licensed under the Kansas Liquor Control Act. The bill also allows a drinking establishment to acquire hard cider from a Kansas-licensed microbrewery that possesses a federal wholesaler's basic permit.

Technical and Conforming Amendments

The bill removes provisions that expired on January 1, 2023, requiring a certain percentage of the products utilized in the manufacture of hard cider by a microbrewery to be grown in Kansas. It also makes conforming amendments throughout to implement the provisions of the bill.

Workers Compensation Lifetime Benefit Increase and Other Changes; SB 430

SB 430 amends workers compensation law to, among other things, increase lifetime benefit maximums, provide coverage for members of the Kansas National Guard, and modernize elements of the administrative process.

Lifetime Benefit Caps

The bill will increase the following lifetime maximum benefits:

Benefit	Current Law	SB 430
Death	$300,000	$500,000
Permanent Total Disability	$155,000	$400,000
Temporary Total Disability	$130,000	$225,000
Permanent Partial Disability	$130,000	$225,000
Temporary Partial Disability	$130,000	$225,000
Functional Only	$75,000	$100,000

The bill also establishes, beginning on July 1, 2027, an adjustment formula that will increase the maximum benefit caps annually by a five-year average of the percentage change in the state average weekly wage.

Additional Benefit Changes

Additional Benefit Payments and Reimbursements

The bill requires an employer to provide reimbursement for "reasonable expenses" for overnight accommodations in cases in which the employer requires the employee to seek a medical opinion outside of their town or city of residence. The bill also increases the per diem requirement from $15 to $30 to help defray the employee's meal expenses. [*Note:* Continuing law requires employers to provide funds for transportation in such instances.]

The bill also increases the amount of medical charges an employer is liable to cover from $500 to $800 when an employee consults a health care provider for the purpose of examination, diagnosis, or treatment without prior application or approval.

Benefit Calculation

The bill clarifies the reduction in the award of compensation for both permanent partial and permanent total disability based upon preexisting functional impairment is only for the "same physical structure as the body part injured."

The bill amends the benefit reduction calculations for retirement benefits under the federal Social Security Act by deducting 50.0 percent of the weekly equivalent amount of benefits from the employee's permanent partial or permanent total disability benefits rather than

100.0 percent. The bill excludes temporary total and temporary partial disability compensation from said deduction.

The definition of "wage" is amended to exclude the employee's first week of employment, if the employee worked less than their expected weekly schedule that week, from the calculation of their average weekly wage .

Benefit Payment Methods

The bill allows, upon agreement of the parties, benefit payments to be made by electronic funds transfer or a payment card and that, if payment is made in such a manner, that notification of payment be made to the injured worker's attorney each time a payment is made.

Minimum Weekly Payments

The bill increases the minimum weekly benefit payment amount from $25 to $50.

Payments for Death Due to Injury

The bill requires a judicial determination of dependency prior to any initial payments for the death of an employee due to injury.

The term "minor child" is also replaced with the term "wholly dependent child."

The bill requires benefit payments to a wholly dependent child to continue until the latest of the following dates:

- If not enrolled in high school, when the wholly dependent child becomes 18 years of age;

- If enrolled in high school, May 30 of the wholly dependent child's senior year in high school or until the child becomes 19 years of age, whichever comes first; or

- If such child is a student enrolled full-time in an accredited institution of higher education or vocational education, the wholly dependent child's 23rd birthday.

Injuries Not on the Schedule

For injuries not on the schedule, the bill amends employee eligibility requirements for receiving permanent partial general disability compensation to employees who suffer an injury that, among other things, involves a functional impairment caused solely by the injury that is equal to or exceeds 7.5 percent to the body as a whole rather than just those that exceed 7.5 percent.

Permanent Partial Disability

The bill amends the compensation calculation for the loss of or loss of use of a scheduled member (*i.e.,* body part listed on the rating schedule) to be the percentage of functional impairment the employee sustained from the injury.

Kansas National Guard

The bill entitles members of the Kansas National Guard to receive their benefits under the general workers compensation benefits starting July 1, 2024, rather than under the National Guard-specific workers compensation benefits in statute. [*Note:* Compensation for any wound, injury, disease, illness, or death that occurs prior to July 1, 2024, would be governed by current National Guard benefits.]

The bill states that, for purposes of benefit calculation, the service member's current military earnings will be used as their average weekly wage. Additionally, the bill deducts from the state benefit amount owed to the service member any federal benefits the service member, or their dependent, receives for a wound, injury, disease, illness, or death. To access benefits under the Workers Compensation Act, a service member will be required to sign an authorization consenting to the release of information regarding any federal compensation received.

Medical Examination, Records, and Treatment

Exchange of Medical Records

The bill requires that, except for preliminary hearings conducted under KSA 44-534a, both parties or their attorneys shall arrange for the free exchange of all medical reports, including those made by treating and examining health care providers, upon receiving notice of the hearing date for a case. The bill requires all medical records to be exchanged no less than 30 days prior to the hearing date. The bill states that failure by any party to comply would be grounds for the administrative law judge to grant a party's request for additional time to present evidence.

The bill also adds requirements regarding the following topics:

- Documents to be included in the notice;
- Disputes of medical reports submitted as evidence;
- Submission of medical records as evidence in a hearing; and
- Testimony by treating or examining health care providers.

In the event the parties are utilizing the preliminary hearing process established in KSA 44-534a, the bill requires such exchange of medical reports to occur no less than 20 days prior to the date of the preliminary hearing.

Neutral Medical Examination

The bill authorizes the administrative law judge to appoint a neutral health care provider to conduct a neutral health care examination should the parties not agree to a neutral health care examination or a neutral health care provider prior to the prehearing settlement conference. The neutral health care provider is required to be "of good standing and ability" and required to address the diagnosis, treatment recommendations, and temporary restrictions of the injured employee. The bill requires the selected health care provider to issue a written report which would be admitted into evidence without additional foundation.

The bill prohibits the appointed neutral health care provider from addressing the injured worker's permanent restrictions, impairment, permanent partial disability, job task loss, wage loss, or permanent total disability in any written report unless the provider is subsequently designated to be the authorized treating health care provider.

The bill also allows any charges or costs incurred from the neutral health care provider due to unreasonable late cancellation or a missed appointment to be charged to the party responsible for the canceled or missed appointment.

Post-award Medical Benefits

The bill amends the circumstances under which an employer's liability for an injured employee's medical benefits would not terminate upon the employee reaching maximum medical improvement. Such employer liability would not terminate if the following conditions were met:

- The employee has undergone invasive or surgical procedures or an authorized treating health care provider recommends the employee would need an invasive or surgical procedure in the future, and evidence is provided that "it is more probably true than not" that future medical treatment will be needed after the employee reaches maximum medical improvement; or

- There is "clear and convincing evidence" that the employee will need future medical treatment.

The bill prohibits proceedings for post-award medical benefits from utilizing preliminary hearing procedures contained in KSA 44-534a.

The bill requires all applications made for a hearing on post-award medical benefits to specifically identify the post-award medical benefits being sought. If the benefits are provided within 30 days, no award of attorney fees would be made unless "clear and convincing evidence" is provided that the employee's attorney expended significant time or resources to obtain the benefits.

Miscellaneous Provisions

Hearing Extension Limitation

The bill removes, for claimants who have not reached maximum medical improvement, a prohibition on grants of extensions for claims that have not proceeded to a regular hearing, settlement hearing, or agreed award within three years of making the claim.

Medical Reference Guides

The bill amends all references to the fourth edition of the American Medical Association Guides for Evaluation of Permanent Impairment to refer to the sixth edition of the publication.

Notification of Injury

The bill clarifies an employee could notify their employer of an injury by accident or repetitive trauma either orally or in writing as provided by law and increases the timeframe in which an injured employee must notify the employer. An employee must notify the employer by the earliest of the following dates:

- Within 30, rather than 20, calendar days from the date of the accident or date of injury by repetitive trauma; or

- Within 20, rather than 10, calendar days after the employee's last day of employment with the employer.

The bill removes a notification deadline related to the date medical treatment is sought.

Records of Hearings

The bill allows the Director of Worker's Compensation (Director) at the Kansas Department of Labor to record hearings by digital recording or other comparable means. Should this occur, the bill requires the recordings to be transcribed by either a certified shorthand reporter or notary public who would then attest to the accuracy of the transcript.

Settlements

The bill allows for settlements to occur by settlement award on written stipulation by a form established by the Director, but only if both parties are represented by legal counsel and the claimant is over the age of 18.

The bill requires any settlement made in this manner to be approved or rejected by the assigned administrative law judge within five business days of the electronic filing of the settlement award by the parties.

Workers Compensation Fund

The bill permits the Workers Compensation Fund (Fund), when engaged in a lawsuit in which the Fund has reasonable belief the liability for the injured worker's benefits should be covered by a principal, to file an application to bring the principal as a party into the lawsuit. Any application made to the Fund to carry out such actions is required to be heard within 60 days from the date the principal was notified of the Fund's application.

Definitions

The bill amends the following definitions:

- "Functional Impairment" will utilize the sixth edition of the American Medical Association Guides to the Evaluation of Permanent Impairment instead of the fourth edition of the publication;

- "Money" includes sick, vacation, or other paid time off;

- "Workman, " "employee," or "worker" includes "claimant" as an equivalent term;

- "Permanent total disability" requires the claimant to meet the following requirements:

    - Suffers impairment as established by competent medical evidence and based on the sixth edition of the American Medical Association Guides to the Evaluation of Permanent Impairment; and

    - Suffers a percentage of functional impairment determined to be caused solely by the injury that is equal to or exceeds 10.0 percent to the body as a whole or the overall functional impairment is equal to or exceeds 15.0 percent if there is a preexisting functional impairment;

- "Complete medical record" is the report of a health care provider and includes the provider's qualifications, patient's history, complaints, details of the findings of examinations, diagnosis, prognosis, nature of the impairment and disability, and an estimate of the percentage of permanent partial disability, if any; and

- "Registered mail" is:

    - Registered mail or certified mail that provides a mailing receipt or is trackable and provides proof of receipt;

    - Electronic mail with proof that the electronic mail was delivered; or

    - Facsimile with proof of delivery.

Self-service Storage Act Update; HB 2545

HB 2545 amends the Self-service Storage Act, specifically concerning sales of property after a notice of termination or non-renewal, non-delivery of rental agreements, and electronic signatures and delivery of rental agreements.

Sale of Property after a Notice of Termination or Non-renewal

The bill permits a self storage operator to sell personal property not retrieved by an occupant within 45 days of a notice of termination or non-renewal delivered by the operator pursuant to the rental agreement's terms.

The bill requires operators seeking to sell such property to provide an additional notice to the occupant, and the sale could occur no less than 15 days after the additional notice, unless the initial notice of termination or non-renewal included, in bold type, a statement indicating the operator may sell the property unless the occupant removes the property by a specified date, which must be at least 45 days after the notice of termination or non-renewal.

Any proceeds from the sale after the operator deducts rent and other charges incurred in the sale of the property are deemed unclaimed property, and the bill requires those proceeds to be remitted to the State Treasurer.

Operators are permitted to dispose of unretrieved property that has been offered for sale in a commercially reasonable manner and received no bids or offers. The bill defines this property as property with no commercial value.

Non-delivery of a Rental Agreement

The bill addresses party obligations when one party does not sign or deliver a rental agreement but actions indicate the rental is to begin or continue.

Generally, operators are bound by a rental agreement signed and delivered by an occupant when the operator accepts payment for the rental, and renters are bound by a rental agreement signed and delivered by the operator when the renter takes or continues possession of the leased space and remits a rent payment. However, beginning July 1, 2024, renters are only bound under such conditions if the rental agreement signed and delivered by the operator indicated such conditions in bold type.

Electronic Rental Agreement Signature and Delivery

The bill permits electronic signatures for rental agreements and electronic rental agreement delivery, and it specifies such provisions only apply to a rental agreement delivered electronically if an occupant has affirmatively agreed to such in writing. The bill defines electronic signature as an electronic symbol or process that is logically associated with, or attached to, a rental agreement and executed or adopted by a party with an intent to accept, execute, or amend the rental agreement.

Unemployment Compensation Changes; Sub. for HB 2570

Sub. for HB 2570 makes various amendments to law related to unemployment compensation. The bill:

- Includes revisions to the unemployment compensation taxable wage base and tax rates;
- Modifies rate contributions for new employers;
- Provides for an annual write-off of a portion of negative unemployment compensation account balances for certain employers;
- Requires a reporting and audit process for interview non-participation;
- Provides for the suspension of state unemployment benefits when individuals are receiving certain federal unemployment benefits;
- Provides for minimum qualifications for members of the Employment Security Board of Review;
- Provides for extensions to the unemployment modernization process and the Unemployment Compensation Modernization and Improvement Council;
- Provides for temporary unemployment and extensions thereto;
- Allows certain school bus drivers to participate in work-share agreements;
- Abolishes the Employment Security Interest Assessment Fund;
- Revises annual Department of Labor reporting requirements; and
- Makes technical changes to the unemployment compensation system and unemployment compensation law.

Taxable Wage Base, Tax Rates, and Negative Account Balance Write-off

The taxable wage base for employer contributions to the Employment Security Fund, currently set at $14,000, will become a percentage of the statewide average annual wage and progressively increase, as follows:

- 25.0 percent beginning in calendar year 2026;
- 30.0 percent beginning in calendar year 2028;
- 35.0 percent beginning in calendar year 2029; and
- 40.0 percent beginning in calendar year 2030.

Beginning in calendar year 2031, the wage base will remain at 40.0 percent of the statewide average annual wage unless any combination of employer contribution rate schedules G through M are in effect for any five preceding consecutive calendar years occurring after 2031. Should that occur, the bill will increase the taxable wage base to 45.0 percent of the statewide average annual wage regardless of changes to the rate tables. [*Note:* Rate schedules G through M include the standard rate table and the tables providing for solvency adjustments.]

The employer contribution rates provided in the rate schedules are revised to provide for a 0.0 percent rate group for the most positively rated employers, reduce rates for all positively rated employers, and make changes to solvency and credit rate adjustments in conformity with the adjustments to the wage base described above.

The bill decreases rates for new employers not eligible for rate-based contributions from 6.0 percent to 5.55 percent of calendar year wages paid for construction industry employers, and from 2.7 percent to 1.75 percent of calendar year wages paid for all other employers.

The bill provides, beginning July 1, 2024, for an annual calculated debt forgiveness option for active negative-rated employers with a reserve ratio of -7.150 percent or less. For such employers, a portion of benefit charges will be conditionally forgiven in order to bring the employer to a reserve ratio of -7.150 percent, and the employer is assigned to the lowest rate group for the next three calendar years. The bill provides that any such employer could avoid such assignment by foregoing the debt forgiveness option and submitting a voluntary contribution in an amount sufficient to establish their reserve ratio equal to or greater than -7.149 percent for the following calendar year.

The deadline for employers to make voluntary contributions for the purpose of reducing the employer's contribution rate is extended from 30 to 90 days following the date of mailing of experiences rating notices for the following calendar year.

The bill requires the Secretary of Labor (Secretary) to prepare contribution rate tables showing the cost for rated employers per employee for the previous, current, and ensuing rate year and publish such tables no less than 30 days prior to the end of the calendar year.

Interview Non-participation Audit Process ("Interview Ghosting")

The bill requires the modernized unemployment compensation system to include an audit process permitting employers to submit reports regarding the work search requirement or My Reemployment Plan and related to applicants accepting interview appointments but not participating or notifying the employer of their inability to participate in the scheduled interview ("interview ghosting").

The Secretary is required to notify employers of the reporting options in annual summaries of benefit changes and rate notices. The bill does not require the audit system to be implemented until a new unemployment compensation information technology system is completed.

Suspension of State Unemployment Benefits When Receiving Federal Unemployment Benefits

The bill requires, to the extent authorized by federal law, the suspension of state unemployment benefits when an individual is eligible for an equal or greater weekly benefit amount under a federal unemployment program. The suspension of state benefits terminates upon the exhaustion of the federal benefits and does not apply to any federal unemployment benefit that is paid in addition to the state weekly benefit amount.

Employment Security Board of Review Candidate Qualifications

The bill sets minimum qualifications for members of the Employment Security Board of Review, in order of priority:

- At least eight years of direct experience with human resources processes, policies, guidelines, or employee relations;
- At least three years of direct experience with employment security laws and processes; and
- Knowledge of unemployment and labor laws.

The bill requires applications for the Board to be submitted to the Director of Unemployment, who determines whether the applicant meets the required qualifications and submits qualified applicants to the Workers Compensation and Employment Security Boards Nominating Committee.

Unemployment Modernization Project Extensions and Unemployment Compensation Modernization and Improvement Council Sunset Extension

The bill authorizes the Legislative Coordinating Council (LCC) to extend the deadline for the full implementation of a new unemployment compensation information technology system as often as the LCC deems appropriate. The Secretary is required to provide written notice to the LCC and the Unemployment Compensation Modernization and Improvement Council (Council) at least 30 days prior to the expiration of the deadline indicating if an extension of the deadline is being sought and the basis for the extension. The bill permits the Council chairperson or any member to provide a written statement to the LCC regarding any extension.

The bill specifies that failure to provide written notice or meet any deadline does not affect the LCC's ability to extend the deadline and permits retroactive extensions of the deadline.

The bill also extends the sunset for the Council, from June 25, 2024, to December 31, 2026.

Temporary Unemployment

The bill defines "temporary unemployment" to mean an individual that has been laid off due to lack of work by an employing unit for which the individual has worked full-time and reasonably expects to resume full-time work at a future date and the individual's employment with the employing unit has been temporarily suspended and not terminated.

Temporary unemployment generally is limited to eight consecutive weeks. However, an extension of eight additional weeks is permitted upon the Secretary's approval. The extension is allowed only upon a determination by the Secretary that the employer has filed all required employment security reports, paid all required contributions, and is primarily engaged in the production and distribution of ready-mixed concrete or the construction of streets, highways, elevated highways, roads, airport runways, public sidewalks, or bridges.

School Bus Driver Work-share

The bill permits school bus drivers employed by private companies to participate in work-share programs during the period between two successive academic years or a similar period between two successive terms of school.

Employment Security Interest Assessment Fund

The bill abolishes the Employment Security Interest Assessment Fund on July 1, 2024. Any balance of the Employment Security Interest Assessment Fund is transferred to the Employment Security Fund and any liabilities of the Employment Security Interest Assessment Fund are transferred to the State General Fund.

Business Acquisition Changes

The bill provides that, upon the completion of a business acquisition involving two employers, a new account is to be established and contribution rate determined as of the first day of the next calendar year, changed from the first day of the calendar quarter, following the completion of the business acquisition.

Electronic Filing and Payment Requirements

The bill requires all employers with 25 or more employees and all third-party administrators with 25 or more client employees to file all wage reports, contribution returns, payments, and interest assessments electronically.

Benefit Years Begin on Sunday

The bill modifies the definition of "benefit year" to specify that unemployment benefit years always begin on a Sunday.

Employer Charge Notice Modifications

The bill changes the timing of benefit charges for contributing employers and rated governmental employers from annually to quarterly and eliminates a provision that prohibits the application of charges to such employers when the amount of the charges is $100 or less.

Department of Labor Annual Reporting

The bill requires annual Department of Labor reporting to include a differentiation of data for terminated and inactive accounts; the statewide average annual and weekly wage amounts; and, beginning in 2025, an annual memorandum submitted to the chairpersons, vice-

chairpersons, and ranking minority members of the standing committees of the House and Senate to which employment security legislation is customarily referred, the President of the Senate, the Speaker of the House, the Governor, and the LCC.

The bill requires the memorandum to include data for contributing negative-rated employers for the current and three most recent years, including:

- An identifying number assigned to each employer other than the employer's account identification;
- The North American Industry Classification System (NAICS) code of the employer;
- The employer's account balance by fiscal year;
- The employer's taxable wages by fiscal year;
- The employer's calculated reserve ratio by fiscal year;
- The employer's taxable wage base by fiscal year;
- The benefits charged to the employer by fiscal year; and
- Whether work share was requested by and approved for the employer.

The bill also requires, starting in 2028, the annual report to include the total numbers of the following:

- Temporary unemployment weeks requested by the employer;
- Temporary unemployment weeks approved for the employer;
- Claimants who requested temporary unemployment against the employer's account independently from any request for temporary unemployment by the employer; and
- Temporary unemployment weeks charged against the employer's account that were claimed independently from any request for temporary unemployment by the employer.

Business Filings; HB 2660

HB 2660 creates and amends law related to required business filings submitted to the Secretary of State (Secretary).

Change of Address—Registered Office

The bill adds provisions to the Business Entity Standard Treatment Act to allow a residential address to be removed from a business filing.

If the address for the registered office of a required entity under the the Act is a residential address, and the registered agent no longer resides at that address, the bill authorizes the current occupant of the residence to have the address removed from the public record.

In order to request removal of the address, the current occupant shall be required to attest to the following information on a form designated by the Secretary:

- The current occupant's name;
- The address for the residence listed on the public record;
- Affirmation that the address is residential;
- Affirmation that the person is the current occupant of the residential address; and
- Affirmation that the person or entity associated with the business filing is no longer associated with the residential address.

Confidentiality

Once submitted, the form shall be confidential and not subject to the Kansas Open Records Act (KORA). The bill places a sunset date of July 1, 2029, on this KORA exception, unless extended by the Legislature.

Agency Procedure

Upon receiving a submitted form, the Secretary shall be required to:

- Attempt to contact the entity on the form and its resident agent to request an address change pursuant to continuing law; and
- Remove the residential address from the public record as the address for a registered office.

The bill requires an entity that receives notice from the Secretary pursuant to the bill to designate and certify the name and address of its registered agent.

Standardization of Business Filings

The bill makes similar changes for various types of business entities that are required to file biennial reports with the Secretary. Under the bill, entities are required to make such reports on or before April 15 (for-profit entities) or June 15 (non-profit entities) in the year the entity is required to file.

For-profit entities that are required to file a report by April 15 include:

- Domestic corporations;
- Electric cooperatives;
- Foreign corporations;
- Foreign covered entities;
- Foreign limited partnerships;
- Foreign limited liability partnerships;
- Limited liability corporations;
- Limited liability partnerships;
- Limited partnerships;
- Professional corporations; and
- Renewable energy electric cooperatives.

With respect to fees associated with filing these reports, the bill removes a requirement that the fee be multiplied by the number of tax periods included in the report.

Amendments for Specific Business Entity Types

The bill amends law related to certain business entity types in various ways.

Cooperative

A cooperative that submits articles of amendment is no longer be required to include the address of its principal office.

Electric Cooperative

Under previously established laws, an electric cooperative is required to report the names and addresses of its officers, including a president, secretary, and treasurer. The bill adds a provision allowing an electric cooperative to report the same information for an equivalent officer to any of the named positions. The bill also requires reporting of the same information for all trustees of the entity. Finally, the bill removes a requirement that the entity report the number of memberships issued during the biennium and changes in the particulars since the last report.

Foreign Covered Entity

A foreign covered entity shall be required to make a statement under penalty of perjury that, on the day of filing, it exists in good standing in its jurisdiction of organization.

Limited Liability Partnership

The bill amends law governing the statement of qualification required to be filed with the Secretary if a partnership has decided to become a limited liability partnership to clarify that such statement be prescribed by the Secretary.

Certificate of Revival

Under law, a corporation whose articles of incorporation or authority to do business have become forfeited or void can revive its articles of incorporation or become authorized to engage in business by filing a certificate of revival. The bill requires the date of filing of the corporation's articles of incorporation to be included on the certificate and removes a requirement that the original name of the corporation be included.

Report of Record Search Fee

The bill removes provisions authorizing the Secretary to charge a fee of $5 for a report of record search.

Technical Amendments

The bill makes a number of technical amendments to conform with the provisions of prior enacted legislation.

Certificate of Reinstatement

The bill allows the Secretary to charge a fee of up to $150 for issuing, filing, or indexing a certificate of reinstatement.

Updated References

Throughout the bill, references to certificates of reinstatement, revival, and restoration are updated to reflect the correct certificate type.

Mailing of Report and Fees—Deadlines

References to postmarked reports, fees, and related deadlines are removed by the bill.

Regulation of PEOs Moves Under the Secretary of State; HB 2790

HB 2790 transfers the registration, compliance oversight, and enforcement authority for professional employer organizations (PEOs), including authority for rules and regulations, from the Commissioner of Insurance to the Secretary of State, effective January 1, 2025. The bill replaces all instances of "Commissioner" with "Secretary" in the Professional Employer Organization Registration Act.

The bill also provides that a fully insured welfare benefit plan offered by a PEO to its employees and covered employees is to be treated as a single employer welfare benefit plan.

Child Advocate Act; Office of the Child Advocate; SB 115

SB 115 enacts the Child Advocate Act (Act), which establishes the Office of the Child Advocate (OCA) as an independent state agency. The bill also amends law in the Revised Kansas Code for Care of Children (CINC Code) and the Revised Kansas Juvenile Justice Code (Juvenile Code) to specify the OCA has access to certain files and records of a child subject to proceedings under these codes.

Definitions

The Act defines the following terms:

- "Child," to mean an individual less than 18 years of age at the time such individual:
  - Is in the custody of the Secretary for Children and Families (Secretary);
  - May be alleged to be a child in need of care;
  - Is alleged to be a child in need of care; or
  - Is currently or was receiving services or treatment from the Kansas Department of Corrections (KDOC) within the previous five years; and

- "Office," to mean the OCA and includes the Child Advocate and staff.

Establishment of Office of Child Advocate

The Child Advocate is established as the independent head of the OCA, and the bill specifies nothing in the Act may be construed to permit any governmental agency to exercise control or supervision over the Child Advocate or the OCA.

Selection and Appointment of Child Advocate

The Child Advocate is appointed by the Governor and subject to confirmation by the Senate.

The bill requires the Child Advocate to be selected without regard to political affiliation and on the basis of integrity and capacity for effectively carrying out the duties of the OCA. The bill requires the Child Advocate to be an individual with extensive experience in the practice of case management, clinical services, or legal services to children and families involved in the child welfare system. The bill prohibits any former or current executive or manager of any program or agency or contracting agency subject to oversight by the OCA from being appointed as Child Advocate within 12 months of the end of such individual's period of service within the program or agency.

The Child Advocate serves a term of five years or until a successor has been appointed and confirmed. The Child Advocate is in the unclassified service and receives an annual salary equal to that of a district court judge. The bill requires the Child Advocate to exercise independent judgment in carrying out the duties of the office.

The bill specifies the Child Advocate has general managerial control over the OCA and is required to establish the organizational structure of the OCA as appropriate to carry out the responsibilities and functions of the OCA.

The bill provides that all budgeting, purchasing, personnel, and related administrative functions of the OCA are administered under the direction and supervision of the Child Advocate.

Within the limits of appropriations, the Child Advocate may hire unclassified employees necessary to administer the OCA who serve at the pleasure of the Child Advocate. The Child Advocate may obtain the services of other professionals necessary to independently perform the functions of the OCA, including obtaining legal services from the Attorney General as provided elsewhere in statute. The Child Advocate may enter into agreements with the Secretary of Administration for the provision of personnel, facility management, and information technology services.

Purpose of the Office of Child Advocate

The bill states the purpose of the OCA is to ensure that children and families receive adequate coordination of child welfare services for child protection and care through services offered by:

- Department for Children and Families (DCF) or its contracting agencies;
- Kansas Department for Aging and Disability Services (KDADS);
- KDOC;
- Kansas Department of Health and Environment; and
- Juvenile courts.

Duties and Powers of the OCA and the Child Advocate

The bill requires the OCA to:

- Receive and resolve complaints that allege that DCF or DCF's contracting agencies by act or omission have:
    - Provided inadequate protection or care of children;
    - Failed to protect the physical or mental health, safety, or welfare of any child; or
    - Failed to follow established laws, rules and regulations, or written policies.

The bill requires the Child Advocate to:

- Establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of children that adversely or may adversely affect the health, safety, and welfare of such children that relate to:
    - State agencies;
    - Service providers, including contractors and subcontractors; and
    - Any juvenile court;

- Provide DCF with a notice of availability that describes the OCA and how to contact the OCA, which DCF is required to prominently display in DCF offices and facilities receiving public moneys for the care and placement of children;

- Maintain a public website;

- Publicize and notify individuals of the OCA's services, purpose, and contact information;

- Compile, collect, and preserve a record of complaints received and processed, which may reveal concerning patterns to be addressed; and

- Recommend changes to policies, procedures, or adopted or proposed rules and regulations of any state or local agency that adversely affect or may adversely affect the health, safety, and welfare of any child.

Investigation of Complaints

The OCA is required to independently investigate complaints received if the OCA reasonably believes the complaint's allegations may be independently verified through an investigation. In conducting such investigations, the OCA is required to:

- Establish and implement procedures for investigating complaints;

- Have access to the following information related to complaints received:
    - Names and physical locations of all children in protective services, treatment, or other program under the jurisdiction of DCF or KDOC;
    - All written reports of child abuse and neglect;
    - All records as provided by the CINC code and Juvenile Code and
    - All current records required to be maintained as provided in the CINC Code and the Juvenile Code;

- Communicate privately with the following persons or entities, after consultation with treatment professionals and service providers:
    - Any child or child's siblings; and

- Anyone working the child, including the family, relatives, employees of DCF, employees of KDOC, and other persons or entities providing treatment and services;

- Have access to, including the right to inspect and copy, relevant records of a child that may be disclosed pursuant to the CINC Code and the Juvenile Code;

- Work in conjunction with:
  - Juvenile intake and assessment workers;
  - Juvenile community corrections officers;
  - Guardians *ad litem*; and
  - Court-appointed special advocates;

- Take statements under oath and obtain judicial enforcement of compulsory processes; and

- Subpoena materials or witnesses using procedures specified in the bill. [*Note:* The procedures to be followed are similar to the procedures that must be followed when subpoenas are issued in proceedings under the CINC Code.]

Complaint Resolution by the Office of Child Advocate

The bill requires the OCA to resolve complaints by:

- Establishing and implementing procedures to resolve the complaints;

- Independently reviewing the complaints and accompanying documents;

- Recommending the appropriate agency or department do one of the following:
  - Review the matter further;
  - Modify or cancel the actions;
  - Change a rule, order, or internal policy;
  - Explain the action further; or
  - Within a reasonable amount of time, provide the OCA information as to the implementation or not of the recommendation by the appropriate agency or department;

- Submitting any findings and recommendations to DCF or KDOC as appropriate;

- Making referrals of child abuse or neglect to law enforcement agencies if there is reason to believe a criminal investigation is warranted and notifying the Abuse, Neglect, and Exploitation Unit of the Office of the Attorney General; and

- Producing reports of findings of fact or conclusions of law regarding any complaint and, if appropriate, the Attorney General may file such reports in any pending CINC case on behalf of the OCA.

Child Welfare System Oversight Assistance

The bill outlines the actions the OCA may take to assist the Legislature in oversight of the child welfare system. The OCA may:

- Meet and discuss any matter in the scope of the Act with the Joint Committee on Child Welfare System Oversight in regular or executive session under applicable duties of confidentiality;

- Review relevant statutes, rules and regulations, policies, and procedures for the health, safety, and welfare of children;

- Evaluate the effectiveness of and recommend changes to procedures for reports of child abuse and neglect for child protective services, including, but not limited to, the involvement of DCF, service providers, guardians *ad litem*, court appointed special advocates, and law enforcement agencies; and

- Review and recommend changes to law enforcement investigative procedures for and emergency responses to reports of abuse and neglect.

Annual Report

The bill requires the Child Advocate, on or before the beginning of each regular Legislative Session, to submit an annual report to the Governor, Chief Justice of the Supreme Court and the Office of Judicial Administration, Secretary for Children and Families, President of the Senate, Speaker of the House, Joint Committee on Child Welfare Oversight, House Committee on Child Welfare and Foster Care (or successor committee), Senate Committee on Judiciary (or successor committee), and any other relevant legislative committee.

The bill requires the reports to include the following items:

- The number of complaints received by the OCA, the disposition of such complaints, the number of children involved in such complaints, and the outcome of such complaints;

- Recommendations for changes in statute, policies, procedures, or rules and regulations;

- The OCA's proposed annual budget; and

- Any other topics the OCA deems appropriate to properly perform the powers, duties, and functions provided by the Act.

Cooperation with Office of Child Advocate

The bill requires DCF and its contracting agencies, KDOC, juvenile intake and assessment workers, juvenile community corrections officers, guardians *ad litem*, and court appointed special advocates to cooperate with the OCA and take the following actions:

- Work diligently, promptly, and in good faith to assist the OCA in performing its powers, duties, and functions provided by the Act;

- Provide full access to and production of records and information requested by the OCA. Such access is not a violation of confidentiality if provided and produced in good faith for the purposes of the Act;

- Require employees and contractors of such department or agency to comply with requests from the OCA;

- Allow employees of such department or agency to file a complaint with or provide records or information to the OCA without supervisory approval;

- Not willfully interfere with or obstruct any of the OCA's duties; and

- Promptly meet and consult with the OCA upon request.

Confidentiality of Office of Child Advocate Files

The bill states the OCA is subject to the same state and federal statutory disclosure restrictions and confidentiality requirements applicable to the state agency or other entity providing information to the OCA, with regard to the information received from the agency or other entity.

Any files maintained by the OCA are confidential and disclosed only at the discretion of the Child Advocate, except that the identity of any complainant or child may not be disclosed by the OCA unless the complainant or child, or either's legal representative, consents in writing to such disclosure, or such disclosure is required by court order.

The bill prohibits a representative of the OCA conducting or participating in any investigation of a complaint from knowingly disclosing to any person other than the OCA, or a person authorized by the OCA, the name of any witness examined or any information obtained or given during such investigation. Such disclosure is a class A nonperson misdemeanor. However, the bill requires the OCA to disclose the final result of the investigation of a complaint with the consent of the child or the child's legal representative.

The OCA may not be required to testify in any court with respect to matters held to be confidential in this section, except as the court may deem necessary to enforce the provisions of the Act or when otherwise required by court order.

The bill states the provisions providing for confidentiality of records expire on July 1, 2029, unless the Legislature reviews and reenacts the provisions, pursuant to the Kansas Open Records Act, prior to July 1, 2029.

Immunity

The bill provides that any person who, without malice, participates in any complaint or provides information in good faith to the OCA is immune from civil liability. The bill also provides that the Child Advocate, the OCA, and any employee of the OCA is immune from civil liability, either personally or in their official capacity, for property damage or loss or personal injury that is caused by or arises out of the performance of the duties of the OCA. The bill specifies any immunity does not apply when caused by the intentional, willful, or wanton misconduct of a person.

Privilege

The bill provides any written or oral statement or communication made by the Child Advocate, the OCA, or employee of the OCA relevant to a complaint being investigated is privileged and may not be:

- Disclosed to any person or entity;
- Admissible in any civil action, administrative proceeding, or disciplinary board proceeding in this state;
- Subject to discovery, subpoena, or other means of legal compulsion for their release to any person or entity; or
- Admissible in evidence in any judicial or administrative proceeding, unless the Child Advocate is already a party to such proceeding.

Retaliation; Improper Disclosure

Any person who knowingly takes "retaliatory action," as defined in the bill, against a child, DCF employee, an employee of contracting agencies of DCF, or KDOC employee for any communication made or information given to the OCA is guilty of a class A nonperson misdemeanor, except when an employee discloses the following:

- Information the employee knows to be false or information without regard for the truth or falsity of the information; or
- Without lawful authority, information that is confidential as provided by any other provision of law.

Employees of the OCA are prohibited from knowingly disclosing false information or disclosing confidential information without legal authority.

Amendments to CINC Code and Juvenile Code

The bill amends statutes in the CINC Code and the Juvenile Code to add the OCA to the list of entities with access to official files, social files, information from agency records, information in law enforcement records, records of law enforcement officers and agencies, records of municipal courts, and records, reports, and information obtained as part of the juvenile intake and assessment process for juveniles. [*Note:* Such access is subject to continuing limits based on relevancy and other factors contained in these statutes.]

The bill also includes the House Committee on Child Welfare and Foster Care as a named committee that has specified access to confidential records.

Children's Cabinet—Imagination Library Book Gifting Program; SB 195

SB 195 authorizes the Children's Cabinet to create a 501(c)(3) nonprofit corporation for the Dolly Parton's Imagination Library. The Board of Directors of the nonprofit will consist of the members of the Cabinet, the Executive Director of the Cabinet, and other directors designated by the Cabinet.

The purpose of the nonprofit is to receive gifts, donations, grants, and other moneys and to engage in fundraising projects for the benefit of the Dolly Parton's Imagination Library Book Gifting Program, to develop, implement, promote, and sustain reading by the children of Kansas.

Age Verification for Certain Websites; SB 394

SB 394 creates law requiring the use of age verification technology to permit access to internet websites containing material that is harmful to minors.

Definitions

The bill defines several terms used throughout the bill, including the following:

- "Harmful to minors" is defined in the same manner as in the crime of promotion to minors of material harmful to minors in the Criminal Code and means that quality of any description, exhibition, presentation, or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when the material or performance, taken as a whole or, with respect to a prosecution for an act described by KSA 21-6402(a)(1), that portion of the material that was actually exposed to the view of minors, having the following characteristics:
    - The average adult person applying contemporary community standards would find the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors;
    - The average adult person applying contemporary community standards would find the material or performance depicts or describes nudity, sexual conduct, sexual excitement, or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and

- A reasonable person would find the material or performance lacks serious literary, scientific, educational, artistic, or political value for minors;

- "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape, or video tape; and

- "Commercially reasonable method of age verification" means:
  - Any method expressly approved by the Attorney General (AG); or
  - Any method that is certified in documented international standards for age verification, as specified by the AG.

Age Verification Requirements

The bill requires any commercial entity that knowingly shares or distributes material that is harmful to minors on a website, and the material appears on 25.0 percent or more of the webpages viewed on the website in any calendar month, or that knowingly hosts the website, to verify any person who is a resident of or is located in the state that attempts to access the website is 18 years of age or older. Under the bill, it is a violation to allow access to the type of website described above without verifying the age of the user.

The bill requires the age verification to be conducted through the use of:

- A commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification; or

- Any other commercially reasonable method of age and identity verification.

Violations and Penalties

Attorney General Enforcement

The bill allows any person who is able to access a website without verifying their age to report the violation to the AG. The AG is required to investigate the violation and may bring an action to enjoin any continuing violation and impose a civil penalty on the commercial entity in violation of the bill's provisions. The penalty imposed may be in an amount between $500 and $10,000 for each violation and clarifies this penalty would be imposed instead of any civil penalty recoverable in an action brought by the AG in the Kansas Consumer Protection Act (KCPA). The bill specifies that each instance in which a website is accessed without proper verification constitutes a separate violation.

Kansas Consumer Protection Act

The bill states any violation pursuant to the bill is deemed an unconscionable act and practice under the KCPA. For the purposes of remedies and penalties provided by the KCPA:

- The person alleging a violation of the bill's provisions is deemed a consumer;
- The commercial entity violating the bill's provisions is deemed the supplier; and
- Proof of a consumer transaction is not required.

Private Cause of Action

The bill allows the parent or legal guardian of a minor who was able to access a website without age verification to bring a private action against the commercial entity that permitted the access. The person bringing the action may seek actual damages resulting from a minor's access to harmful material, statutory damages of no less than $50,000, and reasonable attorney fees and costs.

Retention of Identifying Information Not Permitted

The bill prohibits any commercial entity or third party performing age verification pursuant to the bill from retaining any identifying information, as defined by the bill, of the individual after access has been granted to the website. If a commercial entity is found to have knowingly retained identifying information in violation of the bill's provision, the bill requires the commercial entity to be liable to the individual for resulting damages, including reasonable attorney fees and costs as ordered by the court.

Obligation and Liability of Internet Service Providers

The bill specifies that nothing in the bill may be construed to impose an obligation or liability on an internet service provider or the user of an interactive computer service.

Juvenile Release Programs; House Sub. for SB 420

House Sub. for SB 420 establishes criteria to permit juvenile offenders in the custody of the Secretary of Corrections (Secretary) to leave a juvenile facility for certain programming.

Continuing law authorizes the Secretary to issue leave to a juvenile placed in a correctional facility when necessary for the juvenile to obtain medical services or to reintegrate into the community when accompanied by a staff member or other designated adult.

The bill authorizes the Secretary to establish work release and educational release programs for juveniles, and it specifies a juvenile may attend such release programs outside the facility without a staff member or designated adult when:

- The juvenile meets appropriate classification as defined by Department of Corrections policies and procedures;
- The Secretary finds the juvenile meets the criteria for a release program; and
- The Secretary finds the juvenile can receive substantial benefit from educational or vocational programs that are not offered at the facility.

The bill requires the Secretary to adopt policies and procedures to ensure adequate oversight, supervision, and accountability of a juvenile attending a release program, including communication with community providers related to the juvenile.

SOUL Family Legal Permanency Option; HB 2536

HB 2536 establishes a new legal permanency option for children 16 years of age or older who are in the custody of the Secretary for Children and Families (Secretary). The bill also amends various statutes contained in the Revised Kansas Code for Care of Children (CINC Code) to reference this new form of permanency, which is designated as "Support, Opportunity, Unity, Legal Relationships (SOUL) Family Legal Permanency" (SFLP).

Establishment of SOUL Family Legal Permanency

The appointment of SOUL Family Legal Permanency (SFLP) may be made with:

- Agreement and approval of a child 16 years of age or older;
- Agreement and consent of the child's parent unless there has been a finding of unfitness or termination of parental rights and consent is no longer required; and
- Approval of the court set forth in a court order.

The bill allows a court to order SFLP:

- After a finding of parental unfitness;
- After termination of parental rights; or
- When determined to be in the best interests of the child and the requirements of the appointment described above are met.

Parental Consent Requirements

When parental consent is required for the appointment of SFLP, the bill requires the consent to be in writing and acknowledged by a judge of a court of record or before an officer authorized by law to take acknowledgments. The bill requires that before any consent is acknowledged by a court of record, the court must advise the consenting parent of the consequences of the consent by asking five questions, as specified by the bill.

Parental consent is final when executed, unless the parent contesting consent proves by clear and convincing evidence the consent was not freely and voluntarily given. The bill specifies the burden of proving consent was not freely and voluntarily given rests with the contesting parent. The bill requires the parent to contest consent prior to the issuance of the order appointing a SFLP custodian.

The bill also specifies that when a parent has consented to SFLP based upon a belief that the child's other parent would also consent or be found unfit but the other parent does not consent, the consent is null and void.

Potential SFLP Custodian Review

Prior to making the SFLP appointment, the bill requires the Secretary to submit a report to the court containing the following determinations:

- The ability and suitability of a potential custodian to care for the child, after observing the child in the home of the custodian with whom the child will reside;
- Whether the names of any potential SFLP custodians appear on the Department for Children and Families (DCF) Child Abuse and Neglect Registry;
- Whether any potential SFLP custodians have been convicted of any crime specified in KSA 59-2132(e); and
- The consideration of the appointment of a relative or an individual with whom the child has close emotional ties, to the extent the Secretary determines the appointment to be in the best interests of the child.

Review and Approval by the Court

Prior to ordering SFLP, the bill requires the court to review and consider the Secretary's report described above and additional information provided by the Secretary related to benefits of the SFLP, including, but not limited to, financial support, medical coverage, and educational support if SFLP is established. The bill requires the court to ensure the child has access to the maximum allowable benefits available under other legal permanency options.

When appointing SFLP, the bill requires the court to consider, to the extent the court finds it in the child's best interest, appointing a relative or an individual with whom the child has close emotional ties. The bill provides if a court appoints more than one individual as SFLP custodian, the child and the individual may be unrelated.

The bill provides that upon the establishment of SFLP, the Secretary's custody ends, and the court's jurisdiction over the child continues unless the court enters an order terminating jurisdiction.

Effect of SFLP on Parental Rights

If SFLP is ordered after a judicial finding of parental unfitness without a termination of parental rights, the bill provides all parental rights transfer to the SFLP custodian, except for:

- The obligation to pay child support and medical support;
- The right to inherit from the child; and
- The right to consent to adoption of the child.

If SFLP is ordered after termination of parental rights, the bill provides the parent retains no rights or responsibilities to the child upon termination.

Rights and Responsibilities of Custodian

Pursuant to the bill, a custodian exercises all the rights and responsibilities of a parent, except the custodian may not consent to an adoption of the child or be subject to court-ordered child support or medical support for the child.

The bill also allows a custodian to share parental responsibilities with a parent of a child if the custodian believes it is in the best interests of the child, and there has not been a finding of parental unfitness or another court-ordered limitation. However, this does not relieve the custodian of legal responsibility.

The bill allows the court, upon motion of parties or interested parties, or its own motion, to impose limitations or conditions upon the rights and responsibilities of the custodian, if determined by the court to be in the best interests of the child.

Documentation Required to be Filed With the Court

The bill requires certain documents to be signed and filed with the court with respect to the appointment of a custodian:

- A document confirming the custodian's willingness to serve as custodian; and
- An order of the court appointing such custodian.

When Multiple Custodians Appointed

When more than one custodian has been appointed, the bill requires the court to designate one individual as primary custodian, with the approval of the child and the individual. This primary custodian is required to consider information provided by the child and other custodians for possible resolution in any dispute that may arise between the child and the custodian or between multiple custodians.

The bill allows the court to order alternative dispute resolution upon motion by the child or custodian if a dispute remains unresolved prior to:

- The child reaching 18 years of age;

- June 1 of the school year in which the child reached 18 years of age, if still attending high school.

In the event the court has previously terminated jurisdiction of a child's case, the bill directs that a court may reinstate the jurisdiction to consider a motion for alternative dispute resolution.

Effect of Divorce

The bill provides if custodians are married at the time of the appointment but subsequently divorce, the marriage is annulled, or the court orders separate maintenance with respect to the custodians, the court is required to make custody determinations between the custodians.

Rights of Inheritance

The bill requires the custodians to consider, and separately sign, agreements stating whether they will provide any rights of inheritance to the child and medical power of attorney for the child.

Other Supportive Individuals

The bill states a court may also recognize other individuals who testify to the court that they will provide support to the child, at the request and approval of the child and custodian. The bill specifies such individuals do not have legal obligations or rights related to the child.

Amendments to CINC Code

Definitions

The bill defines the term "SOUL Family Legal Permanency" to mean the appointment of one or more adults, approved by a child who is 16 years of age or older and the subject of a child in need of care (CINC) proceeding. The bill adds the establishment of SFLP as one outcome of the permanency planning process in the definition of "permanency goal."

The bill also makes a technical amendment to add the definition of "behavioral health crisis" in this section. [*Note:* This is a technical amendment reconciling two versions of the statute enacted during the 2023 Legislative Session and is not new language.]

Other Provisions

The bill adds references to SFLP in sections of the CINC Code where other types of permanency are discussed, including provisions governing: jurisdiction, contents of the CINC petition, authorized dispositions in a CINC case, permanency hearings, request for termination of parental rights and appointment of custodian, and voluntary relinquishment and appointment of custodian. [*Note:* Only substantive amendments are described below.]

In the section governing jurisdiction, the bill specifies that when a child has been ordered to have a SFLP custodian, the court's jurisdiction over the child may continue until:

- The child has reached 18 years of age; or
- June 1 of the school year in which the child reached 18 years of age, if still attending high school.

In the section governing the voluntary relinquishment and appointment of a permanent custodian, the bill specifies when a parent voluntarily relinquishes his or her rights to a SFLP custodian, a parent may consent to the custodianship pursuant to provisions outlined in the bill. The bill provides if the individual designated as the SFLP custodian consents to the appointment and is approved by the court, the custodian would have all the rights and responsibilities of a permanent custodian, subject to the provisions of the bill. The bill also requires each consent to the appointment of a SFLP custodian to be in writing and signed by either parent or legal guardian of the child.

Disclosure of Certain Information Related to Child Fatality; HB 2628

HB 2628 modifies the law governing access to confidential information regarding children alleged or adjudicated to be in need of care.

The bill requires the Secretary for Children and Families (Secretary) to release certain information to the public in response to an open records request pursuant to the Kansas Open Records Act (KORA) within seven business days of receipt of the request, if criminal charges are filed with a court alleging that a person caused a child fatality. [*Note:* Continuing law requires release of the same information in response to a KORA request within seven business days when child abuse or neglect results in a child fatality. The required information includes age and sex of the child, date of fatality, a summary of previous reports and findings of abuse or neglect involving the child, and services provided to the child as recommended by the Department for Children and Families.]

Child Death Records—Child Death Review Board and Coroner; HB 2629

HB 2629 amends provisions in law pertaining to the State Child Death Review Board (SCDRB or "Board"). The bill eliminates certain reporting requirements by a coroner involving the investigation and autopsy of a child death and requires the Secretary of Health and Environment to provide the SCDRB with a copy of the child's death certificate. The bill also requires a coroner to immediately notify the parent or legal guardian that an autopsy of their child had been completed and to provide information on how to obtain the autopsy results.

The bill also increases SCDRB membership, outlines its responsibilities, allows for member compensation, addresses the disclosure and maintenance of SCDRB records, and removes the limit on the SCDRB's access to Department for Children and Families (DCF) and other social service agency records involving services provided to the child or the child's family.

Coroner's Report of a Child Death

The bill eliminates the requirement that a coroner complete and sign a nonsuspicious child death form if, after investigation and autopsy, the coroner determines the death of a child does not include any suspicious circumstances or unknown cause.

The bill also eliminates the requirement that a coroner notify the chairperson of the SCDRB within 30 days after an investigation and autopsy determines that the death of a child includes any suspicious circumstance or unknown cause. [*Note:* The requirement that the coroner notify the county or district attorney of the county where a child death involving any

suspicious circumstance or unknown cause occurred within 24 hours of the coroner's investigation and autopsy remains in law.]

Parental Notification of Autopsy

The bill removes a requirement a coroner attempt to notify a parent or legal guardian of the results of the autopsy. Instead, once the autopsy is completed, the coroner is required to immediately notify the parent or legal guardian of its completion and provide information on how a parent or legal guardian may obtain the autopsy results.

Sudden Unexplained Infant Death Syndrome

The bill replaces the term "sudden infant death syndrome" with "sudden unexplained infant death syndrome."

Death Certificate Provided to Board

The bill requires the Secretary of Health and Environment to provide the SCDRB with a copy of the child's death certificate that meets the requirements developed by the SCDRB.

Increase in Board Membership

The bill increases the number of members appointed to the SCDRB by the State Board of Healing Arts from three members to four. The bill increases the number of members who are physicians licensed to practice medicine and surgery from two members to three and requires that two of such members specialize in pediatrics.

Board Responsibilities

The bill requires the SCDRB, when informed of a child death, to review all child deaths of:

- Kansas residents who are less than 18 years of age, regardless of where the deaths occurred; and
- Non-Kansas residents who are less than 18 years of age if the death occurred in Kansas.

Board Member Compensation

The bill allows SCDRB members to receive compensation, subsistence allowances, mileage, and expenses for attending meetings and subcommittee meetings of the SCDRB, subject to approval of the chairperson of the Board and the Attorney General.

Exceptions for Disclosure of Board Records

The bill adds the following to the list of those to whom disclosure of information acquired by and records of the SCDRB is allowed:

- Any person or entity, if the information and records being disclosed are statistics or conclusions of the SCDRB and provided for the purpose of procuring and maintaining financial grants; and

- The Governor and Legislature, if the information and records being disclosed are statistics or conclusions of the SCDRB and provided for the purpose of supplementing the SCDRB's annual report.

Board Access to Agency Records

The bill removes the limit on SCDRB's access to records of DCF or any other social service agency that provided services to the child or the child's family. Under former law, the SCDRB only had access to records if the child or the child's family received services from that agency within three years preceding the child's death.

Transmittal of Written Report

The bill removes the requirement that the SCDRB complete and transmit a copy of its written report to:

- The county or district attorney of the county in which the child's death occurred;

- The county or district attorney of the county in which the child resided if different from where the death occurred; or

- The child protective services agency of the state where the child resided if the child resided in another state.

Maintenance of Records

The bill requires the SCDRB to maintain records of all written reports concerning child deaths for at least 15 years after the date a case investigated by the Board is closed, rather than maintaining the records permanently.

Uniform Nonparent Visitation Act; HB 2675

HB 2675 enacts the Uniform Nonparent Visitation Act (UNVA).

Definitions

The bill defines several terms used throughout UNVA, including:

- "Nonparent" means an individual other than a parent or person acting as a parent of a child. The bill specifies the term "nonparent" includes a grandparent, sibling, or stepparent to a child;

- "Person acting as parent" means a person, other than a parent, who:

  - Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately preceding the commencement of a child custody proceeding; and

  - Has been awarded legal custody by a court or claims a right to legal custody under the laws of Kansas;

- "Consistent caretaker" means a nonparent who, without expectation of compensation, meets the following requirements:

  - Lived with the child for no less than 12 months, unless the court finds good cause to accept a shorter period;

  - Regularly exercised care of the child;

  - Made day-to-day decisions regarding the child solely or in cooperation with an individual having physical custody of the child; and

  - Established a bonded and dependent relationship with the child with the express or implied consent of a child's parent or person acting as a parent or without the consent of a parent or person acting as a parent if no parent or person acting as a parent has been able or willing to perform parenting functions; and

- "Substantial relationship to the child" means a relationship between a nonparent and child that meets the following requirements:

  - The nonparent is an individual with a familiar relationship with the child by blood or law or formed a relationship with the child without expectation of compensation;

  - A significant emotional bond exists between the nonparent and the child from the child's point of view; and

  - The nonparent regularly exercised care of the child and established a bonded and dependent relationship with the child with the express or implied consent of a child's parent or person acting as a parent or without the consent of a parent or person acting as a parent if no parent or person acting as a parent has been able or willing to perform parenting functions.

Application of Uniform Nonparent Visitation Act

The UNVA applies to a proceeding commenced on or after July 1, 2024, in which a nonparent seeks visitation. The UNVA also applies to proceedings commenced before July 1,

2024, where a final order has not been entered. The bill specifies the UNVA applies when a child has been appointed a guardian or permanent custodian.

The UNVA does not apply to proceedings:

- Between nonparents, unless a parent or a person acting as a parent is a party to the proceeding;
- Pertaining to visitation with an Indian child as defined in the federal Indian Child Welfare Act of 1978; and
- Pertaining to a child who is subject of an ongoing proceeding under the Revised Kansas Code for Care of Children (CINC Code) or a substantially similar proceeding in another state.

Proceedings to seek visitation under UNVA are not allowed for:

- A nonparent seeking visitation solely for serving as a foster parent of the child; or
- An individual whose parental rights concerning the child have been terminated.

The bill also bars proceedings under UNVA during the period of an order relating to visitation with a child of a deployed parent or person acting as a parent and specifies a visitation order entered before such parent or person acting as a parent was deployed remains in effect unless modified by the court.

Commencement of Proceeding Under UNVA—Jurisdiction and Notice

The bill provides that a nonparent can commence a proceeding under UNVA by filing a petition in the court having jurisdiction to determine visitation under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).

Upon commencement of a proceeding under UNVA, the nonparent must give notice in the manner described by the Kansas Code of Civil Procedure to each:

- Parent or person acting as a parent of the child who is the subject of the proceeding;
- Person having legal custody, residency, or parenting time with the child;
- Individual having court-ordered visitation with the child; and
- Attorney, guardian *ad litem*, or similar representative appointed to the child.

Petition for Visitation

Under UNVA, a petition for visitation by a nonparent is required to allege facts showing:

- The nonparent meets the requirements of a consistent caretaker of the child; or

- The nonparent has a substantial relationship with the child and denial of visitation would result in harm to the child.

The petition must state the relief sought and allege specific facts showing:

- The duration and nature of the relationship between the nonparent and the child, including the period, if any, the nonparent lived with the child and the care provided;

- The content of any agreement between the parties to the proceeding regarding care of the child and custody of or visitation or other contact with the child, and if there is such an agreement, it must be attached to the petition;

- A description of any previous attempt by the nonparent to obtain visitation or other contact with the child;

- The extent to which the parent or person acting as a parent is willing to permit the nonparent to have visitation or other contact with the child;

- Information about compensation or expectation of compensation provided to the nonparent in exchange for care of the child;

- Information required to establish jurisdiction of the court under the UCCJEA;

- The reason the requested visitation is in the best interest of the child, applying factors outlined in UNVA; and

- If the nonparent alleges a substantial relationship with the child, the reason denial of visitation to the nonparent would result in harm to the child.

Prima Facie *Case for Visitation*

If the court determines, based on the petition described above, a nonparent has not pleaded a *prima facie* case for visitation, the court is required to dismiss the petition.

To plead a *prima facie* case, the bill requires the nonparent to show:

- A denial of visitation would harm the child;

- The nonparent has been a consistent caretaker during the year immediately preceding the filing of action or has a substantial relationship with the child; and

- An order of visitation to the nonparent is in the best interest of the child.

Presumptions

The bill provides that in an initial proceeding under UNVA, there is a rebuttable presumption that a decision by a parent or person acting as a parent regarding the nonparent visitation request is in the best interest of the child. A nonparent has the burden to rebut the presumption by clear and convincing evidence of facts related to the request for visitation. The bill specifies that proof of a parent's or person acting as a parent's unfitness is not required to rebut the presumption.

The bill requires the court to presume that ordering visitation for a nonparent is not in the best interest of the child if the court finds the nonparent or an individual living with the nonparent has:

- Committed the crime of abuse of a child or abandonment or aggravated abandonment of a child;
- Committed a domestic violence offense;
- Committed a sex offense;
- Committed stalking;
- Been subject to registration requirements under the Kansas Offender Registration Act; or
- Committed a comparable offense or has been subjected to a registration requirement in another state.

The bill requires the finding to be based on evidence of a conviction in a criminal proceeding or final judgment in a civil proceeding or proof by a preponderance of the evidence.

A nonparent may rebut the presumption by proving through clear and convincing evidence that ordering visitation to the nonparent will not endanger the health, safety, or welfare of the child and is in the child's best interest.

Order of Visitation

A court may order visitation to a nonparent only if the nonparent proves:

- The denial of visitation would result in harm to the child;
- The nonparent is or has been a consistent caretaker within one year of the action's initiation or has a substantial relationship with the child; and
- An order of visitation to the nonparent is in the best interest of the child as determined by the court considering the following factors:

- Nature and extent of the relationship between the child and the parent or person acting as a parent;
- Nature and extent of the relationship between the child and the nonparent;
- Past or present conduct by a party or individual living with a party that poses a risk to the physical, emotional, or psychological well-being of the child;
- Likely impact of the requested order on the relationship between the child and the parent or person acting as a parent;
- Applicable factors considered in the determination of legal custody, residency, and parenting time of the child; and
- Any other factor affecting the best interest of the child.

The bill allows the court to consider the views of the child, taking into account the age and maturity of the child, when making an order of visitation.

The court is required to make findings of fact and conclusions of law when issuing a final order and state the reasons for dismissal or denial.

Modification of Orders

The court may modify a final visitation order on a showing by a preponderance of the evidence that a material change in circumstance has occurred relevant to the visitation with the child and modifying the order is in the best interest of the child. On agreement of the parties, the court may modify a visitation order unless the court finds the agreement is not in the best interest of the child.

Other Court Actions Authorized Under UNVA

To the extent authorized by the Kansas Family Law Code, the bill allows the court to:

- Appoint a guardian *ad litem* for the child;
- Interview the child if the child is of sufficient age and maturity;
- Require the parties to participate in mediation or another form of alternative dispute resolution except that a party who is the victim of a domestic violence offense, sex offense, stalking, or other offense committed by the other party is not required to participate unless reasonable procedures are in place to protect the party from a risk of harm, harassment, or intimidation; or
- Order an evaluation, investigation, or other assessment of the child's circumstances and the effect on the child of ordering or denying the requested visitation or modifying a visitation order.

Notice of Nonparent Visitation Order to Parent

A nonparent entitled to visitation with a child under UNVA is required to give written notice to the parent or person acting as a parent if the nonparent:

- Is subject to the registration requirements of the Kansas Offender Registration Act or any comparable registration requirements of another jurisdiction;
- Has been convicted of child abuse under the Kansas Criminal Code; or
- Is residing with an individual who is known by the nonparent to be subject to registration requirements or convicted as described in the bill.

The bill requires notice to be sent by restricted mail, return receipt requested, to the last known address of the parent or person acting as a parent within 14 days following knowledge of an event described above.

Failure to give required notice is an indirect civil contempt of court punishable as provided by law. The court may order the nonparent required to give notice to pay reasonable attorney fees and any other expenses incurred by the parent or person acting as a parent as a result of failing to give notice.

The events described above may also be considered a material change of circumstances that justify modification of a prior visitation order.

Expenses of Visitation

Unless the court determines that justice and equity require otherwise, the nonparent is required to pay for the expense of facilitating visitation, including the cost of transportation, court-ordered services for the child, and costs and reasonable attorney fees, to the parent or person acting as parent.

Uniformity; Electronic Signatures in Global and National Commerce Act; Severability

In applying and construing UNVA, the bill requires consideration to be given to promoting uniformity of the law among states that enact UNVA.

The bill also specifies how UNVA interacts with the Electronic Signatures in Global and National Commerce Act.

The bill includes a severability clause stating if any provision of UNVA is held invalid, the invalidity does not effect other provisions of UNVA.

Repeal of Third-party Visitation Provisions in Kansas Family Law Code

The bill repeals four statutes concerning grandparent and stepparent visitation rights in the Kansas Family Law Code, as UNVA applies to these types of visitation proceedings.

Civil Asset Forfeiture; SB 458

SB 458 amends several provisions of the Kansas Standard Asset Seizure and Forfeiture Act (Act).

Conduct Giving Rise to Forfeiture

The bill removes certain offenses from the list of conduct and offenses giving rise to forfeiture under the Act, regardless of whether there is a prosecution or conviction related to the offense. The bill would remove offenses related to possession of a controlled substance and other crimes associated with personal use of controlled substances.

Exemptions to Forfeiture—Proportionality Determination

The bill removes language related to the court's duty to limit the scope of a proposed forfeiture. The bill instead directs the court to determine whether the proposed forfeiture is unconstitutionally excessive pursuant to provisions created by the bill regarding forfeiture proceedings, if the court has not made this determination earlier in the proceeding. [*Note:* Under prior law, if a court found the effect of the forfeiture was grossly disproportionate to the nature and severity of the owner's conduct prior to final judgment in a judicial forfeiture proceeding, it had a duty to limit the scope of the forfeiture.]

Seizure of Property—Seizing Agency Requirements and Limitations

Time Limitations

The bill reduces the time period in which the seizing agency must forward a written request for forfeiture to the appropriate county or district attorney from 45 days to 14 days.

Upon the expiration of the 14-day time limitation described above, or upon notification the county or district attorney declines the request (whichever occurs first), a local seizing agency would have 14 days to request a state law enforcement agency adopt the forfeiture or engage a private attorney to represent the local seizing agency in the forfeiture proceeding. The bill provides the same 14-day time limitation for a state seizing agency to engage an assistant attorney general, or other approved attorney, to represent the state seizing agency in the forfeiture proceeding.

If a local or state seizing agency fails to meet the time limitations described above, the bill requires the seizing agency to return the seized property to the owner or interest holder within 30 days in the same manner as provided by KSA 22-2512. [*Note:* KSA 22-2512 provides certain seized property, such as dangerous drugs or hazardous materials, must be destroyed or disposed of rather than returned.]

The bill specifies nothing in this section will affect time limitations related to initiating or filing a forfeiture proceeding pursuant to the Act.

The bill also prevents the seizing agency from requesting, inducing, or otherwise coercing a person who asserted rights as an owner or interest holder of the property to waive, in writing, such property rights until forfeiture proceedings commence.

Federal Adoption

The bill authorizes a state or local law enforcement agency to request federal adoption of a seizure under the Act or otherwise transfer or refer seized property to a federal agency only if:

- The seizure by the agency occurs pursuant to a joint task force with federal law enforcement authorities;
- The seizure by the agency occurs pursuant to a joint investigation with federal law enforcement authorities as part of an ongoing federal investigation;
- The agency makes such request in conjunction with a request for federal authorities to adopt the criminal investigation related to the seizure;
- The property seized by the agency is subsequently seized pursuant to a federal seizure warrant, obtained from a federal court, to take custody of assets originally seized under state law;
- The property seized by the agency directly relates to a serious public safety concern; or
- The gross estimated value of the property seized by the agency is $25,000 or more.

Commencement of Forfeiture Proceedings—Probable Cause Affidavit

The bill requires an affidavit describing probable cause supporting forfeiture to be filed in addition to the notice of pending forfeiture or judicial forfeiture action in order to commence forfeiture proceedings, and the forfeiture could proceed only after a judge has determined there is probable cause to believe the property is subject to forfeiture under the Act.

The bill requires, when notice of a pending forfeiture is mailed to an owner or interest holder, the notice to include the probable cause affidavit described above. Prior law required an affidavit describing essential facts supporting forfeiture to be provided with the notice.

The bill amends law relating to the filing of liens for the forfeiture of property to allow a plaintiff's attorney to file a lien only upon the commencement of a forfeiture proceeding, rather than upon the initiation of any civil or criminal proceeding relating to conduct giving rise to forfeiture under the Act.

Notice of Claims Against Seized Property

The bill requires, after an owner or interest holder has filed a claim against property seized for forfeiture, the plaintiff's attorney to file a notice of receipt of the claim with the court, unless the claim was already filed. The filing must include a copy of the claim and documents showing the date the claim was mailed and received.

Forfeiture Proceedings

Forfeiture Proceedings, Generally

As described above, the bill requires a judge determine that probable cause supports the forfeiture proceeding at the time of commencing the action. Accordingly, the bill removes language allowing an owner or interest holder of seized property to request a probable cause hearing.

The bill states that an owner or interest holder may petition the court for determination, or reconsideration of its prior determination, that there is probable cause to support forfeiture at any time prior to final judgment.

If the court finds that there is no probable cause for forfeiture, the bill specifies that the court must order the release of the property to the custody of the applicant, as custodian for the court, or from a forfeiture lien pending the outcome of a judicial proceeding under the Act.

The bill adds provisions allowing a person whose property has been seized to petition the court to determine whether the forfeiture is unconstitutionally excessive. The plaintiff's attorney shall have the burden of establishing that the forfeiture is proportional to the seriousness of the offense giving rise to the forfeiture by clear and convincing evidence. In making this determination, the court may consider, but not shall not be limited to considering:

- The seriousness of the offense;
- The extent of participation in the offense by the person from whom the property was seized;
- The extent to which the property was used in committing the offense;
- The sentence imposed for committing the offense that gave rise to forfeiture;
- The effect of the forfeiture on the livelihood of the person from whom property was seized; and
- The fair market value of the property compared with the property owner's net worth.

The bill requires the court to automatically stay discovery against the person whose property was seized and against the seizing agency in the forfeiture proceeding during a related

criminal proceeding alleging the same conduct. The court may lift the automatic stay of discovery with good cause shown, changed from upon a motion.

In Rem *Proceedings—Burden of Proof*

The bill amends law governing *in rem* forfeiture proceedings to require the plaintiff's attorney to prove by clear and convincing evidence, rather than preponderance of the evidence, that the interest in the property is subject to forfeiture. [*Note:* An action *in rem* is a legal term meaning an action filed against property.]

Judicial Disposition of Property—Fees and Costs

The bill allows a court to order a claimant who fails to establish that a substantial portion of the claimant's interest is exempt from forfeiture to pay reasonable fees, expenses, and costs to any other claimant establishing an exemption and to the seizing agency in connection with that claimant.

In addition, if a claimant prevails, and the court orders the return of at least half of the property's aggregate value, the bill requires the court to order the seizing agency to pay:

- Reasonable attorney fees and litigation costs to the claimant;
- Post-judgment interest; and
- Any interest actually paid from the date of seizure in cases involving currency, other negotiable instruments, or the proceeds of an interlocutory sale.

When there are multiple claims to the same property, the bill does not make the seizing agency liable for attorney fees and costs associated with any claim if the seizing agency:

- Promptly recognizes the claim;
- Promptly returns the claimant's interest in the property if it can be divided without difficulty and there are no competing claims to that portion of the property;
- Does not cause the claimant to incur additional costs or fees; and
- Prevails in obtaining forfeiture with respect to one or more of the other claims.

Disposition of Forfeited Property—Federal Transfer and Special Law Enforcement Purpose

The bill amends law governing the disposition of forfeited property to allow a law enforcement agency to transfer the custody or ownership of forfeited property to any federal agency only if authorized pursuant to certain conditions created by the Act with respect to requests for federal adoption.

Under the Act, moneys in certain specified forfeiture funds may only be used for 12 special law enforcement purposes. The bill adds the payment of attorney fees, litigation costs, and interest ordered by a court to this list of purposes for which forfeiture funds may be used.

Repository and Reporting Requirements

The bill amends law pertaining to the role of the Kansas Bureau of Investigation (KBI) in reporting on law enforcement agency forfeiture activity to specify that in addition to information regarding law enforcement agencies not compliant with reporting requirements, KBI is required to provide each agency's forfeiture fund financial report that is submitted to the Kansas Asset Seizure and Forfeiture Repository to the President of the Senate, the Speaker of the House, and the House and Senate Committees on Judiciary.

Criminal Procedure—Notice to Appear and Appearance Bonds; SB 473

SB 473 amends the Kansas Code of Criminal Procedure to allow a notice to appear (NTA) to serve as a valid complaint and amends law related to appearance bonds made in district courts.

Notice to Appear

Under the bill, a NTA may serve as a valid complaint when it is signed by a law enforcement officer (LEO) and meets the following criteria:

- The NTA is issued for any unclassified misdemeanor or nonperson misdemeanor [*Note:* By law, an NTA must also contain the notice and address of the person detained, the crime charged, and the time and place when and where such person shall appear in court.];

- A Memorandum of Agreement (MOA) exists between the County or District Attorney of the jurisdiction where the NTA is issued and the law enforcement agency that employs the LEO signing the complaint; and

- The NTA is in compliance with the requirements of the MOA and includes the contents for a complaint as required by law.

Compensated Surety Qualifications

The bill adds various qualifications to law specifying the requirements for a compensated surety to secure appearance bonds in district court.

Background Check; Fingerprinting

Under the Kansas Code of Criminal Procedure (Code), the chief judge of a judicial district, or their designee, approves persons or entities to act as a compensated surety in the district court. The bill allows the chief judge to require a compensated surety to submit to a state and national criminal history record check as part of either initial or continued authorization.

Fingerprints obtained for the record check shall be used to identify the individual and to determine whether such person has a criminal history record in Kansas or any other jurisdiction. The bill allows the chief judge to submit the fingerprints to the Kansas Bureau of Investigation (KBI) and the Federal Bureau of Investigation for a state and national criminal history record check.

The bill allows the chief judge to use the information obtained from fingerprinting and the records check to verify the identification of the individual and to determine whether the person is qualified to act as a compensated surety in the judicial district.

Disclosure or use of any fingerprint or records check information for purposes other than those specified by the bill shall be considered a class A nonperson misdemeanor.

The bill also allows the KBI to charge a reasonable fee for conducting the records check. The applicant shall be required to pay records check fees and the fingerprinting fee.

Property Surety—Outstanding Appearance Bonds

Under the Code, a property surety executes an affidavit describing the property used to write appearance bonds. The bill specifies that limitations in law concerning total outstanding appearance bonds are calculated by considering bonds issued within Kansas.

Compensated Surety Requirements

The bill creates provisions in the Code to specify requirements of a compensated surety. Under the bill, a compensated surety shall:

- Charge a minimum appearance bond premium of 10.0 percent of the face amount of the bond;
- Only post a bond after receiving 50.0 percent of the bond premium in one of the following forms:
    - U.S. currency paid to the compensated surety prior to the execution of the bond;
    - A delivered check payable to the compensated surety when delivered and promptly deposited into a bank account;
    - A credit or debit card transaction if the compensated surety obtains prior authorization from the card issuer; or
    - A bank or wire transfer or other electronic funds transfer including, but not limited to, peer-to-peer transfer (*e.g.,* Cash App, PayPal, Venmo) prior to the execution of the bond; and
- Be physically present when the bond is posted and sign the bond at the jail.

The bill requires a compensated surety to enter into a premium financing agreement for the remaining portion of the bond premium (at least 50.0 percent of which was paid to have

bond posted). [*Note:* The bill provides that the bond premium shall consist of at least 10.0 percent of the total bond amount.]

Termination or Suspension

The bill allows a chief judge to terminate or suspend a compensated surety from posting bond. These reasons may include, but are not limited to:

- Filing false statements with the court;
- Failing to charge the minimum appearance bond premium as required by the bill;
- Paying a fee or rebate, or giving or promising anything of value in order to secure a settlement, compromise, remission, or reduction of the amount of any appearance bond, forfeiture, or estreatment, or to secure or delay an appearance bond to:
    - A jailer;
    - A law enforcement officer;
    - Any person who has the power to arrest or hold a person in custody; or
    - Any public official or employee;
- Paying a fee or rebate or giving or promising anything of value other than reward payments for information relating to the apprehension of fugitives to an inmate in exchange for a business referral;
- Requiring or accepting anything of value from a principal other than the appearance bond premium, except that the compensated surety may accept collateral security or other indemnity to secure the face amount of the bond;
- Intentionally failing to promptly return collateral security to the principal when they are entitled to return of the collateral;
- Knowingly employing or otherwise compensating convicted felons (unless the conviction was expunged) for any appearance bond-related work, other than reward payments relating to apprehension of a fugitive; or
- Failing to pay any forfeiture judgment within 30 days of the filing of the journal entry of judgment.

The bill allows a chief judge to investigate claims of violations of the reasons listed above. If the chief judge finds that a violation has occurred, the compensated surety may have their authorization terminated or suspended. If terminated, the bill clarifies that the chief judge must make a record as required under the Code and provide it to the surety.

Compensated Surety Continuing Education

The bill raises the limit on the annual continuing education fee charged by the Kansas Bail Agents Association from $250 to $300 and allows the Association to prorate course charges according to the number of hours in a particular course.

Definitions

Compensated Surety

The term "compensated surety" in the Code is amended by the bill to mean any person who or entity that is organized under Kansas law that, as surety, issues appearance bonds for compensation, posts bail for four or more persons in a calendar year, is responsible for any forfeiture, and is liable for appearance bonds written by such person's or entity's authorized agents. A compensated surety is either an insurance agent surety, a property surety, or a bail agent.

Under the bill, the definition is amended to add the provisions concerning posting bail for four or more persons and that a surety may be a bail agent, in addition to insurance agent surety or property surety, as found in continuing law.

Property Surety

The bill amends the definition of "property surety" to include corporations in the definition.

Appearance Bond Premium

The bill adds a definition for the term "appearance bond premium" to mean a fee charged by a compensated surety for posting an appearance bond.

Mental Health—Court-ordered Treatment and Custody; HB 2353

HB 2353 amends provisions in the Care and Treatment Act for Mentally Ill Persons (Act) to extend the time period a person may be held for treatment and to add conditions for which continued treatment may be ordered.

Time Extensions

A court may, under certain circumstances, issue an *ex parte* emergency custody order set to expire at 5:00 p.m. the third day, changed from the second day, the court is open after the issuance.

The bill also extends the deadline for setting a hearing in response to a request for a temporary custody order or an emergency custody order that resulted from noncompliance with a patient's outpatient treatment order.

Finally, the bill extends the period of time for which a court may order continued involuntary treatment of a person in an initial order from a maximum of three months to a maximum of six months.

Outpatient Treatment Orders

Continuing law allows a court to order outpatient treatment in lieu of involuntary inpatient care and treatment if the court makes certain findings. The bill amends those findings to be that the patient:

- Will meet the criteria for required inpatient care in the near future and is only likely to attend outpatient treatment under a court order; or

- If left untreated, is likely to experience worsening symptoms caused by mental illness that would lead to the need for inpatient care and has previously refused mental health services in the community, due to their mental illness.

Additionally, continuing law allows a court order to state specific outpatient conditions to be followed by the patient, including directives and treatment required by the treating outpatient facility. The bill requires such directive and treatment plans to be provided to the court in writing within ten business days after the order for outpatient treatment is issued. Failure to provide such information to the court shall not be considered grounds for dismissal of the order unless the failure was made in bad faith.

Rules of Evidence—Presumption or Inference; House Sub. for SB 318

House Sub. for SB 318 amends the Code of Evidence to specify how a statutory or common law presumption or inference against a criminal defendant is to be construed and to establish a permissive inference when a person is found to possess certain quantities of a controlled substance.

Rules of Evidence

The bill adds provisions to the Rules of Evidence regarding how presumptions or inferences operate. In criminal cases, presumptions or inferences, including those in which certain facts are evidence of another fact or of guilt, are allowable under the bill. The bill clarifies that the judge may reject any presumption or inference, and prohibits the judge from instructing the jury they must accept a fact against the defendant.

The bill permits the judge to include instructions on presumptions or inferences only if the presumption or inference is supported by the facts. When such instruction occurs, the judge is required to instruct the jury that:

- The jury is to consider all facts of the case with the presumption or inference;
- The jury may accept or reject the presumption or inference when determining whether the prosecution has met the burden of proof; and
- The burden of proof never shifts to the defendant.

Intent to Distribute—Permissive Inference

Under the possession with intent to distribute provisions of the Kansas Criminal Code, a rebuttable presumption of an intent to distribute exists if a person possesses certain quantities of controlled substances.

For purposes of court proceedings related to a case involving possession with intent to distribute, the bill replaces the "rebuttable presumption" of such intent to distribute with "an inference," if the facts of the case support such an inference. [*Note:* Black's Law Dictionary defines the term "rebuttable presumption" to mean a legal inference or assumption that a fact exists because of the known or proven existence of some other fact or group of facts. The term "permissive inference" is defined to mean a presumption that a trier of fact is free to accept or reject from a given set of facts.]

Omnibus Crimes Bill; SB 414

SB 414 amends the crime and penalties of aggravated endangering a child; amends the crime and applies a special sentencing rule to the crime of unlawful distribution of fentanyl-related controlled substances (fentanyl); removes the element of concealment and secrecy from the crime of breach of privacy; amends law in the Kansas Code of Procedure for Municipal

Courts governing fingerprinting for municipal convictions; amends provisions in sentencing law regarding computation of time served; and updates terms and conditions of supervision for certain offenders.

Aggravated Endangering a Child

The bill amends the elements of the crime of aggravated endangering a child. The bill adds fentanyl to the list of drugs for which causing or permitting a child to be in an environment where the person knows or reasonably should know the drug is present constitutes the crime. The bill adds "or used" regarding specified environments where law applies to storage of drug paraphernalia or volatile, toxic, flammable, or otherwise specified chemicals for manufacturing or attempting to manufacture methamphetamine or fentanyl.

Severity Level

The bill creates a new severity level 6 person felony penalty for the crime when bodily harm is inflicted upon the child.

Definitions

The bill defines "fentanyl-related controlled substance" to mean the same as in the article of the Criminal Code involving controlled substances and "methamphetamine" to mean the same as in Schedule II of the Uniform Controlled Substances Act.

Unlawful Distribution Penalties—Fentanyl

The bill amends the penalties for unlawful distribution of a controlled substance to specify a violation of the crime with respect to material containing any quantity of fentanyl to be the same as for material containing any quantity of heroin or methamphetamine.

When the drug is measured by dosage unit, the bill specifies the following penalties for fentanyl only:

- Drug severity level 4 felony for fewer than 10 doses;
- Drug severity level 3 felony for at least 10 doses but fewer than 50 doses;
- Drug severity level 2 felony for at least 50 doses but fewer than 250 doses; and
- Drug severity level 1 felony for 250 doses or more.

[*Note:* Continuing law defines a "dosage unit" as a discrete unit including, but not limited to, a pill, capsule, or microdot that is not distributed by weight. Continuing law also defines a "dosage unit" with respect to controlled substances in liquid form.]

Permissive Inference

The bill amends language regarding a rebuttable presumption of an intent to distribute to replace the presumption with a permissive inference. The bill adds 3.5 grams or more and 50

dosage units or more of fentanyl to the list of quantities of controlled substances that leads to such an inference.

Breach of Privacy

The bill amends the crime of breach of privacy to remove the elements of concealment and secrecy when the crime involves installing or using a device to photograph or record another person under or through their clothing, or a person who is nude or in a state of undress.

Fingerprinting for Municipal Convictions

The bill specifies that fingerprints need not be obtained from individuals convicted of violating municipal ordinances related to vehicle registration, driving without a valid driver's license, or failing to have motor vehicle liability insurance coverage. [*Note:* Former law required fingerprints to be obtained in all municipal convictions that are comparable to a class A or class B misdemeanor or assault under the Kansas Criminal Code.]

Computation of Sentences

Under continuing law, at sentencing, a judge is required to designate a date to be used when computing a defendant's sentence, parole eligibility, and conditional release dates. The date must be designated in a journal entry after considering the time the defendant has been incarcerated while awaiting disposition of their criminal case.

The bill specifies that the defendant is entitled to have credit applied for each day spent incarcerated while awaiting disposition of their criminal case.

The bill prohibits the court from considering the following in designating a date:

- Time awarded as credit in another case when consecutive sentences are imposed on a defendant; or

- Time spent incarcerated in another jurisdiction if no hold has been issued in such jurisdiction for the case being sentenced.

Special Sentencing Rule—Fentanyl

The bill amends the special sentencing rule for the unlawful manufacturing of fentanyl to specify this rule applies to an offender convicted of unlawful distribution when the crime is classified as a drug severity level 1, 2, or 3 felony. [*Note:* The special sentencing rule provides a sentence of presumptive imprisonment and two times the maximum duration of the presumptive sentence term. Sentences under the special rule are not considered a departure and are not subject to appeal.]

Conditions of Supervision

The bill revises and amends conditions of supervision for persons on supervised release. For persons on supervision for probation, suspension of sentence, or assignment to community corrections, the bill authorizes the court to impose the conditions listed below. For persons on parole or postrelease supervision after being in the custody of the Kansas Department of Corrections (KDOC), the Prisoner Review Board is required to impose the following conditions:

- Obey all laws and ordinances;
- Inform the supervision officer of any encounters with law enforcement within 24 hours of such encounter;
- Refrain from engaging in or making threats of violence;
- Not purchase or posses any dangerous weapon, including a firearm, if the supervision is for a felony conviction;
- Report to the assigned supervision officer as directed and be truthful in all matters;
- Remain in Kansas or other areas as specified by the supervision officer;
- Inform the supervision officer of any sudden changes in residence or contact information within 24 hours of the change and reside at the approved residence;
- Not possess, use, or distribute any controlled substance unless prescribed by a licensed medical professional;
- Abstain from alcohol or substance use and from entering an establishment where sale or consumption of alcohol is the primary business;
- Comply with alcohol or substance testing as directed by the supervision officer without tampering with the specimen or test;
- Participate in assessments, treatment, programs, and other directives mandated by the court or supervision officer; and
- Refrain from contacting victims unless authorized by the court as part of rehabilitation or therapy.

The bill also directs the Office of Judicial Administration (OJA) and the KDOC to collaborate on developing appropriate documentation for conditions of supervision for probation, suspension of sentence, and community corrections.

Parole or Postrelease Supervision

The bill removes the required conditions of repaying transportation costs related to apprehension of the person for violation of a condition of release, pursuing a secondary education, and performing community service. The bill retains required conditions of supervision for persons on parole or postrelease supervision regarding payment of fees and reimbursement for services.

Searches and Reporting

Provisions regarding searches are included in the conditions for persons on probation, community corrections, parole, or postrelease supervision. The person is required to submit to searches of their person, belongings, vehicle, and property by:

- A court services officer or community correctional services officer for persons on probation or in community corrections;

- A parole or corrections officer for persons on parole or postrelease supervision, with or without a warrant or cause, although not for the sole purpose of harassment; and

- A law enforcement officer based on reasonable suspicion of probation, parole, or postrelease supervision violations or criminal activity.

The bill adds a requirement that a law enforcement officer who conducts a search under supervision terms of parole submit a written report to the person's parole officer no later than the close of business the next day after the search is conducted. The bill requires the written report to include facts leading to the search, the scope of the search, and any findings of the search. [*Note:* Similar requirements are found in continuing law for searches of persons on probation and in community corrections.]

Probation Conditions for Driving Under the Influence

The bill requires certain persons with a felony driving under the influence (DUI) conviction to participate in a multidisciplinary model of substance use disorder treatment.

Current law classifies DUI as a severity level 6 nonperson felony when:

- The person has a prior conviction within the past 10 years, not including periods of incarceration; or

- It is the person's fourth or subsequent conviction.

Risk and needs assessment. The bill requires, if a person convicted of a felony DUI has been granted probation, a risk assessment tool specified by the Kansas Sentencing Commission to be used to determine the person's risk and needs. The court is, then, required to determine whether community correctional services or court services will supervise the person, based upon the determined risk and needs of the person.

Multidisciplinary model of services. The bill requires a person convicted of a felony DUI under probation supervision to participate in a multidisciplinary model of services for substance abuse disorders facilitated by a care coordination agency designated by the Kansas Department for Aging and Disability Services (KDADS).

The bill requires the model of services to include assessment and, if appropriate, referral to community-based substance use disorder treatment, including recovery management and mental health counseling as needed. The bill requires members of the multidisciplinary team to include:

- The designated care coordination agency;
- The supervision officer;
- The KDADS designated treatment provider; and
- The person.

Controlled Substance "Good Samaritan" Protections; House Sub. for SB 419

House Sub. for SB 419 provides immunity from prosecution for possession of a controlled substance or certain drug paraphernalia if the person seeks medical assistance while under the influence of a controlled substance or provides medical assistance to a person who is under the influence of a controlled substance and is in need of medical assistance.

Persons Eligible for Immunity

The bill prohibits a law enforcement officer from taking a person who may be eligible for immunity into custody based solely on an alleged offense of:

- Possession of a controlled substance; or

- Possession with the intent to use drug paraphernalia in order to introduce a controlled substance into the person's body.

[*Note:* The bill does not provide immunity for persons who possess and intend to use drug paraphernalia to manufacture, cultivate, plant, propagate, harvest, test, analyze, or distribute a controlled substance, as specified in continuing law.]

Seeking Medical Assistance by an Individual

The bill provides immunity to persons who initiate contact with law enforcement or emergency medical services (EMS) and request medical assistance on their own behalf due to use of a controlled substance and a reasonable belief that such assistance was needed. Such person is also required to cooperate with law enforcement and EMS personnel while medical assistance is provided.

Rendering Aid or Seeking Assistance for Another

The bill makes immunity available to a person who, on behalf of a person who appeared to need medical assistance due to the use of a controlled substance:

- Renders aid; or
- Initiates contact with law enforcement or EMS and requests medical assistance for such person.

The person is also required to:

- Provide their full name and any other relevant information necessary to provide medical assistance requested by law enforcement or EMS personnel;
- Remain at the scene with the person needing medical assistance until EMS personnel and law enforcement officers arrive; and
- Cooperate with EMS personnel and law enforcement in providing medical assistance.

Persons in Need of Medical Assistance

The bill makes immunity available to the person who reasonably appears to need medical assistance due to the use of a controlled substance and who cooperates with EMS personnel and law enforcement while medical assistance is provided.

Immunity Conditions and Exceptions

Persons who otherwise qualify under the bill are immune from criminal prosecution for the crimes of possession of a controlled substance or possession with intent to use drug paraphernalia to introduce a controlled substance into the human body pursuant to the Kansas Criminal Code, or any city ordinance or county resolution for the same acts.

Intent to Distribute

If a quantity of controlled substances is found at the scene of the encounter with law enforcement that is sufficient to create a rebuttable presumption of intent to distribute, immunity from criminal prosecution or having an arrest warrant issued will not be available to persons who may otherwise qualify.

Warrants and Searches

The bill does not extend immunity to persons who seek medical assistance during the course of the execution of an arrest or search warrant or during a lawful search.

Other Evidence

The bill contains a provision indicating persons immune to prosecution under the bill can be prosecuted based on evidence obtained from an independent source.

Civil Liability

Under the bill, law enforcement agencies and officers will not be liable based on an officer's compliance or failure to comply with the bill. Furthermore, the bill extends civil liability immunity to officers who arrest persons later determined to be immune from prosecution, unless such officer's conduct was reckless or constituted intentional misconduct.

Organized Retail Crime; Encouraging Suicide; Senate Sub. for HB 2144

Senate Sub. for HB 2144 establishes the crime of organized retail crime in the Kansas Criminal Code, makes organized retail crime a type of "racketeering activity" under the Kansas Racketeer Influenced and Corrupt Organization (RICO) Act, and amends law concerning Attorney General (AG) authority to prosecute crimes concurrently with county or district attorneys.

The bill also creates the crime of encouraging suicide and establishes penalties for it under the Kansas Criminal Code.

Organized Retail Crime

The crime of organized retail crime will be committing one of the following acts with the intent to permanently deprive the owner of the possession, use, or benefit of the owner's property or services:

- Acting in concert with one or more other persons to receive, purchase, sell, or possess merchandise with an aggregate retail market value of $5,000 or more within a 12-month period, knowing or believing such merchandise to have been stolen;

- Taking merchandise with an aggregate retail market value of $5,000 or more from one or more retailers within a 12-month period, as part of an organized plan to commit theft; or

- Recruiting, coordinating, organizing, supervising, directing, managing, or financing one or more other persons to undertake any of the above-mentioned actions.

Tiered Penalty

The bill establishes that the penalty for organized retail crime will be based upon the aggregate retail market value of the involved merchandise, as follows:

- Value of at least $5,000 but less than $25,000 will be a severity level 6 nonperson felony;

- Value of at least $25,000 but less than $100,000 will be a severity level 5 nonperson felony; and

- Value of $100,000 or more will be a severity level 4 nonperson felony.

Venue

The bill allows for the venue for prosecution to be any venue available under any other provision of law or any county where at least $1 in aggregate retail market value of merchandise is taken, received, stolen, or purchased.

Definitions

The bill defines terms used in defining the crime of organized retail crime, including:

- "Aggregate retail market value" means the total combined value of merchandise taken, at the price at which the merchandise would ordinarily be sold by the retailer through legitimate sale or distribution;

- "Merchandise" means chattels of any type or description regardless of the value offered for sale in or about a store;

- "Retailer" means a person or business selling, leasing, or facilitating the sale or lease of merchandise to the public or a business; and

- "Store" means a place where merchandise is sold or offered to the public for sale at retail or leased or offered to the public for lease.

Kansas Racketeer Influenced Corrupt Organization Act

The bill amends the definition of "racketeering activity" in the Kansas RICO Act to include the crime of organized retail crime.

Attorney General Concurrent Authority to Prosecute

The bill amends the AG's authority to prosecute certain crimes concurrently with any county or district attorney. Former law authorized the AG to concurrently prosecute:

- Theft;

- A violation of the Kansas RICO Act; or

- Any attempt, conspiracy, or criminal solicitation of such crimes that is part of an alleged course of criminal conduct that occurred in two or more counties.

The bill modifies this authority to specify the AG may concurrently prosecute:

- Organized retail crime and any other crime that is part of such alleged course of criminal conduct;

- Theft;

- A violation of the Kansas RICO Act; or

- Any attempt, conspiracy, or criminal solicitation of the above crimes.

Encouraging Suicide

The bill defines "encouraging suicide" as knowingly encouraging a person to commit or attempt to commit suicide when:

- Such person knows the other person has communicated a desire to commit suicide;

- Encouragement of suicide is made proximate in time to the other person committing or attempting to commit suicide; and

- Such encouragement substantially influences the other person's decision or methods used to commit or attempt to commit suicide.

Definitions

The bill defines "attempt to commit suicide" as any physical action done by a person with the intent to commit suicide.

For purposes of the new crime, the bill defines "encouraging a person to commit or attempt to commit suicide" as oral, written, or visual communication that is persuasive or intended to be persuasive and that gives advice to commit suicide, attempt to commit suicide, or develop a plan to commit suicide.

Penalties

Encouraging suicide will be a severity level 5 person felony if the other person attempts to commit suicide, and a severity level 4 person felony if the other person commits suicide.

Increased Penalties for Harming Law Enforcement Animals; HB 2583

HB 2583 amends the crime of inflicting harm, disability, or death upon certain law enforcement animals to include police horses; increases penalties for inflicting harm that results in disability or death to these animals; and specifies the restitution available for a violation of the crime.

Inflicting Harm, Disability, or Death to Certain Law Enforcement Animals

Continuing law defines inflicting harm, disability, or death to specified law enforcement and assistance dogs as knowingly, and without lawful cause or justification, poisoning, inflicting great bodily harm, permanent disability, or death. The bill adds police horses to the list of specified animals that are covered under the crime.

Continuing law provides the crime is classified as a nongrid, nonperson felony with a mandatory minimum prison sentence of 30 days and up to one year of imprisonment, and a fine $500 to $5,000. The bill removes a requirement that the offender have a psychological evaluation during the mandatory prison sentence and be ordered to complete an anger management program as a condition of probation when an offender is convicted of a nongrid, nonperson felony violation of the crime.

Increased Penalties for Inflicting Harm Resulting in Disability or Death

The bill provides that inflicting harm that results in disability or death of a specified animal, with the exception of assistance dogs, is classified as a severity level 4 nonperson felony, with a penalty of:

- Mandatory 90 days imprisonment;
    - A requirement that 90 days imprisonment be served before the person is eligible for release on probation, suspension, or reduction of sentence or parole;
- A minimum fine of $10,000; and
- During the mandatory imprisonment period, completion of:
    - A psychological evaluation; and
    - Completion of an anger management program as a condition of probation.

The crime is classified as a severity level 3 nonperson felony, with the same penalty described above, when the crime is committed while:

- Fleeing or attempting to elude a police officer;
- Interfering with law enforcement;
- Escaping from custody; or

- Committing an aggravated escape from custody offense.

Restitution

The bill requires restitution ordered for the crime to include:

- Costs of veterinary medical treatment;
- Reasonable funeral and burial expenses; and
- Replacement costs of the police dog, arson dog, assistance dog, game warden dog, search and rescue dog, or police horse, to include:
    - Training costs;
    - Personnel expenses; and
    - Costs associated with boarding the animal during training.

Definitions

The bill amends the definition of "police dog"—any dog owned or employed by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders—to remove language regarding the dog's purpose.

The bill also adds a definition of "police horse" to mean any horse that is owned by, or the service of which is employed by, a law enforcement agency.

Levi's Law; HB 2665

HB 2665, known as "Levi's Law," increases the penalties for leaving the scene of an accident when the driver knew or reasonably should have known the accident resulted in injury or death. [*Note:* The bill was requested for introduction by a representative of Watkins Strategies on behalf of a private citizen, Jill Ward. Ms. Ward provided testimony during the hearings on the bill that her son, Levi Ward, died as the result of a fatal car accident from which the other driver fled without calling emergency services or rendering aid. The bill is named "Levi's Law" in his memory.]

Under continuing law, the offense of leaving the scene of an injury or fatal accident before complying with the statutory requirements is classified as a severity level 5 person felony if the person knew or should have known such injury or fatality occurred due to the accident. The bill increases the penalty to a severity level 4 person felony if one death occurred in the accident and sets a new penalty for accidents resulting in the death of more than one person at a severity level 3 person felony.

Crime Victims Compensation; HB 2781

HB 2781 amends law regarding compensation from the Crime Victims Compensation Board (Board) to be awarded to victims of certain criminal conduct. The bill also increases the amount that can be transferred from the Crime Victims Compensation Fund (CVCF) to the Crime Victims Assistance Fund (CVAF) each fiscal year.

Victim Compensation

The bill expands compensation beyond mental health counseling for certain crime victims by removing a set of requirements concerning compensation for mental health counseling. Additionally, the bill allows the Board to award compensation when the Board determines failing to compensate the victim would be a severe injustice.

The bill revises the compensation award process by allowing the Board to consider the totality of the circumstances based on five factors in continuing law and, the bill adds, consider other factors as deemed appropriate by the Board in making their determination.

The bill increases the maximum weekly compensation from $400 to $800. The bill adds compensation for work loss for a victim of human trafficking or aggravated human trafficking in an amount not less than $350 per week and not more than $800 per week.

Reporting Criminally Injurious Conduct

The bill allows compensation claims to be awarded if the victim obtains a forensic medical examination within seven days of the occurrence of criminally injurious conduct. The bill authorizes the Board to award compensation if it finds there was good cause for failure to obtain an examination within that time limit.

Under continuing law, persons under the age of 16 who were the victims of certain sexual or human trafficking crimes must file an application for compensation within 2 years of reporting the incident to law enforcement. For persons who are victims of certain sexually violent crimes, the bill establishes various application deadlines of within either two years or ten years of a specific event.

The bill changes the reporting requirement for claims by persons for any other criminally injurious conduct to require application within five years of the injury or death upon which the claim is based. In instances where more than one deadline would apply to a victim (such as a victim of a sexually violent crime), the bill allows the victim to file by the longest time limitation that applies.

Increased Transfer to the Crime Victims Assistance Fund

The bill increases the authorized transfer amount from the CVCF to the CVAF from $300,000 to $500,000 each fiscal year.

Deferred Maintenance Funding at Postsecondary Institutions; SB 18

SB 18 creates the Kansas Campus Restoration Act authorizing the Kansas Board of Regents (Board) to adopt rules and regulations relating to deferred maintenance and demolition of facilities at postsecondary institutions.

The bill allows transfers from the State General Fund (SGF) to the Kansas Campus Restoration Fund (Fund) and requires annual reports to be submitted to the Legislature.

Definitions

The bill defines the following terms:

- "Educational mission-critical facilities" includes, but is not limited to, any facility of research or economic generation capacity that the Board deems essential. This definition does not include auxiliary or athletic-funded facilities; and

- "State of good repair" is defined as a building that meets industry standard, which will be presented to the Joint Committee on State Building Construction for review and comment.

Deferred Maintenance

The bill creates the Fund within the State Treasury, and funding will be administered by the Board.

The bill requires that a deferred maintenance account be created for each postsecondary educational institution for the purpose of making capital improvement expenditures from the Fund. All expenditures from such account require a match of non-state moneys on a $1-for-$1 basis from either the institution or private moneys.

The bill does not require a match for community colleges, technical colleges, the municipal university, the institute of technology, or from the state educational institutions' deferred maintenance accounts for use for demolition or razing.

The bill requires, on or before the tenth day of each month, the Director of Accounts and Reports to transfer from the SGF to the Fund the interest earnings based on:

- The average daily balance of moneys in the Fund for the preceding month; and

- The net earnings rate for the Pooled Money Investment Portfolio for the preceding month.

Funding

The bill requires the Director of Accounts and Reports to transfer $32.7 million from the SGF to the Fund annually from July 1, 2025, until July 1, 2030, or as soon as moneys are available after each date.

The bill requires the Board to distribute an aggregate amount of $30.0 million from the Fund among the state educational institutions' deferred maintenance accounts, in accordance with the campus restoration plan developed and approved by the Board starting in FY 2026 through FY 2031.

The bill also requires the Board to credit $100,000 from the remaining $2.7 million in each fiscal year to each community college, technical college, and municipal university in FY 2026 through FY 2031.

Reporting and Planning

The bill requires that each postsecondary institution develop and submit a report to the Board detailing a plan for rehabilitating, remodeling, or renovating existing facilities, or building new facilities. The plan will include a list of facilities for demolition or razing and a plan to bring any buildings into a state of good repair. The plan will also include satellite campuses, such as Kansas State University Salina and University of Kansas Edwards Campus. All institution plans will be subject to approval by the Board.

The bill requires the Board to develop a comprehensive Kansas Campus Restoration Plan that includes all facilities from each institution, and the Board could require a reduction of total campus square footage in a project associated with such plan.

The bill authorizes the Board to adopt any rules or regulations necessary to implement and administer the provisions of the Kansas Campus Restoration Act. Additionally, the Board will be required to submit to the Legislature an annual report on or before the first day of a regular session on the progress of the Kansas Campus Restoration Plan. This report will be submitted to the Senate Committee on Ways and Means, House Committee on Appropriations, House Committee on Higher Education Budget, and Joint Committee on State Building Construction.

EMERGE Program; Cardiac Emergency Response Plans; SB 19

SB 19 establishes the Kansas National Guard Education Master's for Enhanced Readiness and Global Excellence (EMERGE) Program to provide financial assistance to Kansas National Guard members pursuing master's degrees at Kansas educational institutions and requires school districts to adopt cardiac emergency response plans based on the statewide standards developed by the Secretary of Health and Environment.

EMERGE Program

National Guard Member Selection

The bill requires, on or before July 1 of each academic year, the Adjutant General to select up to 100 eligible National Guard members who have applied to the EMERGE Program to receive assistance. The bill caps the number of eligible National Guard members in the program at 200 members in any one school year.

Financial Assistance

The bill, subject to appropriations, provides eligible National Guard members who are enrolled at Kansas educational institutions and participating in the program to receive financial assistance for tuition and fees each semester. The bill provides each participant with financial assistance in an amount equal to the tuition and required fees for the semester, with the following requirements and adjustments:

- The number of credit hours may not exceed 15.0 credit hours in one semester;
- The aggregate number of credit hours taken by a participant may not exceed 150.0 percent of the total credit hours needed for the master's degree;
- The course is not being repeated or taken in excess of the master's degree program requirements;
- The tuition and required fees do not exceed the maximum rate that may be charged by a state educational institution for enrollment of the eligible National Guard member; and
- The amounts of federal or institutional tuition assistance received by the eligible National Guard member shall be deducted from that participant's state benefits.

Participation Requirements

The bill requires National Guard members participating in the program to agree, in writing, to complete the member's current service obligation and to serve actively and in good standing for no less than 48 months following the completion of the program. The bill also requires participating members to submit the Free Application for Federal Student Aid (FAFSA) and apply for any other federal tuition assistance available.

Each participating National Guard member will be required to remain in good standing with their Kansas educational institution, make satisfactory progress toward completion of the requirements of their degree, and maintain a grade point average of no less than 2.75 in order to continue their participation in the program.

Clawbacks

The bill requires any participating National Guard member who received benefits under the program but failed to meet the requirement of continued service to repay to the State an amount of money determined in the following manner:

- Determine the total amount of assistance paid to such member under the program;
- Divide the amount determined by 48; and
- Multiply the amount determined by the number of months such member did not serve as required by the bill.

The bill requires all repayments made in this manner to be deposited in the State Treasury and credited to the Kansas National Guard EMERGE Repayment Fund (Fund).

State Board of Regents

The bill requires the State Board of Regents to administer the program and carry out the following activities:

- Establish a mechanism to ensure distribution of funds for tuition and fee reimbursement to Kansas educational institutions;
- Enter into a cooperative relationship with the Adjutant General to ensure efficient operation of the program;
- Develop and effectuate a system of accountability for all disbursements of funds and provide written reports as required; and
- Coordinate with the Adjutant General to create a procedure to ensure initial and ongoing eligibility of participating National Guard members in the program.

The bill authorizes the State Board of Regents to adopt rules and regulations to assist in administering the program.

Definitions

The bill defines, among others, the following terms:

- "Educational program" means a master's degree program offered or maintained by a Kansas educational institution that leads to the award of a master's degree to an eligible guard member upon satisfactory completion of course work;
- "Eligible guard member" means any member of the Kansas National Guard who has been accepted into an eligible master's degree program and who is not

under a suspension of favorable flag action or on the unit unfavorable information file; and

- "Kansas educational institution" means a state educational institution as defined by law, Washburn University, or an accredited independent institution as defined by law.

Establishment of Fund

The bill establishes the Fund in the State Treasury. The Fund will be administered by the State Board of Regents, and all expenditures from the Fund must be for National Guard member financial assistance under the program.

Cardiac Emergency Response Plans

Statewide Standards

The bill requires the Secretary of Health and Environment (Secretary) to develop statewide standards for cardiac emergency response plans in accordance with nationally recognized guidelines.

School District Cardiac Emergency Response Plans

The bill requires the board of education of each school district to adopt a comprehensive cardiac emergency response plan based on the statewide standards developed by the Secretary. Each board of education may be permitted to use any materials, documentation, video recordings, training modules, and certifications published by organizations focused on emergency cardiovascular care.

The bill requires a cardiac emergency response plan to include at least the following:

- Establishing a cardiac emergency response team;
- Identifying and implementing the placement of automated external defibrillators (AEDs);
- Identifying roles and responsibilities of school district and emergency personnel in implementing the emergency response plan;
- Establishing procedures, such as the roles and responsibilities of school district personnel when responding to emergency cardiovascular incidents at school or at the site of any school-sponsored activity, that would include, but not be limited to:
    - Responding to individuals experiencing a suspected sudden cardiac arrest;
    - Summoning emergency medical services (EMS);

  - Assisting EMS providers; and
  - Documenting actions taken during such incident;

- Conducting routine maintenance and placement of AEDs in accordance with statewide standards;

- Rehearsing cardiac emergency response plans either prior to the beginning of each athletic season or prior to the beginning of each school year;

- Establishing communication systems with local EMS operating within the school district; and

- Developing a cardiac emergency response plan for school-sponsored events held at a location that is not on school district property.

Reviewing and Submitting Cardiac Emergency Response Plans

Each board of education is required to annually review the cardiac emergency response plan and adopt any changes to such plan as necessary. Additionally, each school district is required to submit to the Secretary a copy of the adopted cardiac emergency response plan and, if changes are made to such plan, a copy of the amended plan.

Enrollment Determination for State Aid; House Sub. for SB 73

House Sub. for SB 73 amends certain enrollment determination criteria in the Kansas School Equity and Enhancement Act (KSEEA) to require school district enrollment to be determined using the current or preceding school year. The bill also authorizes an additional enrollment count determination for school year 2024-2025 only, to allow school districts to consider the arithmetic mean of the sum of the number of students enrolled in the preceding school year and second-preceding school year.

Enrollment Determination for State Aid

Current Determination Requirements

Under current requirements in KSEEA, school districts and the State Department of Education (KSDE) use the student enrollment count from the preceding year to determine state aid entitlements for the current school year. The law further allows any school district that experienced a decrease in enrollment between the second-preceding school year and the preceding school year to use the second-preceding year enrollment count.

The law also provides enrollment determination provisions specific to school districts that receive federal impact aid for the enrollment of military students that experience a decrease in enrollment between the second-preceding school year and the preceding school year. Those school districts are permitted to determine enrollment using either the second-preceding school

year enrollment count or the arithmetic mean of the preceding, second-preceding year, and third-preceding year school year enrollment counts.

Definition of Enrollment

The bill amends the definition of "enrollment" under the KSEEA to require KSDE and school districts to use the greater of the preceding-year enrollment for kindergarten and grades 1 through 12 on September 20, as well as current-year preschool-aged at-risk students, or the current-year enrollment count for these same student groups.

The bill further amends the definition to add an additional consideration for enrollment count that would be applicable only for school year 2024-2025. The bill permits school districts to use whichever is the greater of the current year and the arithmetic mean of the sum of the preceding and second-preceding year enrollment counts.

Impact aid. The bill also amends the enrollment determination requirements specific to school districts that receive federal impact aid. Under the bill, such districts could determine enrollment using the current-year enrollment count; the preceding-year enrollment count; or the arithmetic mean of the preceding, second-preceding, and third-preceding year enrollment counts. [*Note:* The KSEEA calculation prescribed for local foundation aid was amended by 2022 HB 2567 to remove federal impact aid from the formula.]

Distribution of State Foundation Aid in FY 2025; SB 339

SB 339 prohibits the distribution of State Foundation Aid moneys within the budget of the Kansas State Department of Education (KSDE) to a school district that has no students enrolled in and attending a school of such district.

Specifically, the bill provides that during FY 2025, notwithstanding the provisions of KSA 72-3125 (which governs contracts for the purpose of providing for attendance of students at a receiving school district) and KSA 72-5131 *et seq.* (the Kansas School Equity and Enhancement Act [KSEEA]) or any other statute, no expenditures shall be made by the KSDE from moneys appropriated from the State General Fund or from any special revenue fund or funds for FY 2025 as authorized by Section 3 of Chapter 98 of the 2023 Session Laws of Kansas, Section 2 of 2024 SB 387, this, or other appropriation act of the 2024 Regular Session of the Legislature to distribute any State Foundation Aid moneys to a school district that has no students enrolled in and attending a school of such school district in school year 2024-2025.

The bill also provides that, if students who are residents of such school district are enrolled in and attending any other school district, such students shall be counted as regularly enrolled in and attending school in such other school district and not counted in the school district of residence. The bill requires the KSDE to distribute State Foundation Aid moneys accordingly to such other school district.

K-12—Education Appropriations and Other Provisions; House Sub. for SB 387

House Sub. for SB 387 makes appropriations for the Kansas State Department of Education (KSDE) for FY 2024, FY 2025, and FY 2026; makes adjustments to the Kansas School Equity and Enhancement Act (KSEEA); establishes the Education Funding Task Force;

repeals authorization for the Special Education and Related Services Funding Task Force; and amends various provisions of law related to K-12 education.

Appropriations for FY 2024, FY 2025, and FY 2026

The bill makes the following appropriations for KSDE.

FY 2024

For KSDE, the bill:

- Lapses $714,470 from the State General Fund (SGF) in the Kansas Public Employees Retirement System (KPERS) non-USDs account;
- Lapses $341 SGF from the KPERS USDs account;
- Lapses $81.9 million SGF from the State Foundation Aid account;
- Lapses $14.6 million SGF from the Supplemental State Aid account;
- Lapses $40,000 SGF from the Career Technical Education Pilot account;
- Lapses $300,000 SGF from the Juvenile Transitional Crisis Center Pilot account; and
- Adds $87,297 SGF to accommodate the pay plan shortfall.

With these changes, the appropriation for FY 2024 is $6.7 billion, including $4.6 billion SGF.

FY 2025

For KSDE, the bill appropriates $6.6 billion, including $4.9 billion SGF. This amount includes $5.8 billion, including $4.9 billion SGF, for the major categories of school finance, KPERS USDs, and KPERS non-USDs.

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

- $15.2 million for operating expenditures;
- $80,000 for the Center for READing;
- $25.2 million for KPERS non-USDs;
- $506.3 million for KPERS USDs;

- $2.8 million for the ACT and WorkKeys Assessments Program;
- $1.5 million for Career and Technical Education Transportation;
- $67,700 for Education Commission of the States dues;
- $10,000 for the School Safety Hotline;
- $5.0 million for School Safety and Security Grants;
- $5.1 million for School District Juvenile Detention Facilities and Flint Hills Job Corps Center Grants;
- $2.5 million for school food assistance;
- $2.0 million for the Virtual Math Education program;
- $1.3 million for the Mentor Teacher program;
- $110,000 for Educable Deaf-Blind and Severely Handicapped Children's Program Aid;
- $65.5 million for Special Education Services Aid;
- $360,693 for the Governor's Teaching Excellence Scholarships and Awards;
- $29.6 million for State Foundation Aid;
- $1.8 million for Professional Development State Aid; and
- $1.0 million for the Computer Science Education Advancement Grant.

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

- $375,000 for the Children's Cabinet Accountability Fund;
- $23.7 million for CIF grants;
- $9.4 million for the Parent Education program (*i.e.*, Parents as Teachers);
- $4.2 million for the Pre-K Pilot program;
- $1.4 million for early childhood infrastructure;
- $1.5 million for the Dolly Parton Imagination Library; and
- $5.0 million for the Children's Cabinet Public-Private Partnership Pilot program.

In addition, the bill appropriates $276,533 from the Kansas Endowment for Youth (KEY) Fund for the administration of the Children's Cabinet. It also appropriates $42.8 million from the Expanded Lottery Act Revenues Fund (ELARF) for KPERS non-USDs.

Transfers. The bill provides for the following transfers:

- $50,000 on July 1, 2024, or as soon as moneys are available, from the Family and Children Trust Account of the Family and Children Investment Fund of KSDE to the SparkWheel program fund of KSDE;

- $550,000 on March 30, 2025, and $550,000 on June 30, 2025, from the State Safety Fund to the SGF to reimburse costs associated with services provided by other state agencies on behalf of KSDE;

- $81,250, quarterly, from the State Highway Fund of the Department of Transportation to the School Bus Safety Fund of KSDE;

- An amount certified by the Commissioner of Education from the Motorcycle Safety Fund of KSDE to the Motorcycle Safety Fund of the State Board of Regents on July 1, 2025, to cover costs of driver's license programs conducted by community colleges;

- $70,000 from the Universal Service Administrative Company (USAC) E-rate Program Federal Fund of the State Board of Regents to the Education Technology Coordinator Fund of KSDE; and

- All moneys from the Communities in Schools program fund to the SparkWheel program fund, on July 1, 2024. All liabilities of the Communities in Schools program fund will be transferred to the SparkWheel program fund, and the Communities in Schools program fund will be abolished. [*Note:* Statutory provisions would be updated to reflect this change of reference; see Section 19.]

The bill authorizes the Commissioner of Education to transfer any part of an SGF appropriation for KSDE to another SGF appropriation for KSDE for FY 2025.

Additional Provisions Regarding Appropriations in FY 2025

The bill includes proviso language directing certain FY 2025 expenditures. The bill also adds proviso language lapsing $65.5 million SGF in Special Education State Aid on July 1, 2025, if the excess costs sections of the bill are not enacted into law. The bill also adds proviso language that the $5.0 million CIF for the Children's Cabinet public-private partnership is one-time funding.

FY 2026

For KSDE, the bill appropriates the following from the SGF:

- $3.0 billion for State Foundation Aid;

- $601.8 million for Supplemental State Aid; and
- $601.0 million for Special Education State Aid.

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

Additional Provisions Regarding Appropriations in FY 2026

The bill includes proviso language directing certain FY 2026 expenditures.

Education Funding Task Force; Repeal of Special Education and Related Services Funding Task Force

The bill establishes the Education Funding Task Force, which will be required to review several elements associated with the current school finance system and academic reporting and achievement goals and to report recommendations to the Governor and the Legislature on or before January 11, 2027, that provide for the establishment of a new school finance formula to replace the formula (Kansas School Equity and Enhancement Act [KSEEA]) that will expire on July 1, 2027. The bill also repeals authorization for the Special Education and Related Services Funding Task Force.

Membership and Appointments

The bill establishes the Education Funding Task Force (Task Force), which will be composed of the following 11 voting members:

- Two members of the House of Representatives appointed by the Speaker of the House;
- One member of the House of Representatives appointed by the Minority Leader of the House of Representatives;
- Two members of the Senate appointed by the President of the Senate;
- One member of the Senate appointed by the Minority Leader of the Senate;
- One member of the State Board appointed by the State Board;
- One member who must be a parent of a K-12 student who attends a school district in Kansas, appointed by the Speaker of the House;
- One member who must be a current or retired public school teacher, appointed by the President of the Senate;
- One member who must be a superintendent of a rural school district, appointed by the State Board; and

- One member who must be a superintendent of an urban school district, appointed by the State Board.

The bill specifies that any superintendent member of the Task Force is permitted to designate another individual to attend any or all meetings of the Task Force as the member's designee.

Ex officio, non-voting members. The bill also provides for four non-voting ex officio members of the Task Force:

- The KSDE Deputy Commissioner of Fiscal and Administrative Services or designee;

- The chairperson of the Kansas Children's Cabinet or designee;

- The Director of the Budget or designee; and

- The KSDE Director of Special Education and Title Services or designee.

Review of School Finance System

The bill requires the Task Force to review the:

- Current school finance system in Kansas including, but not limited to, the KSEEA;

- Current methods for determining and disbursing Special Education State Aid;

- Inputs of the current school finance system, including, but not limited to, funding levels, funding sources, and funding impacts;

- Outputs of the current school finance system, including, but not limited to, academic achievement outcomes and other measures of student success;

- Current academic reporting requirements with respect to state assessments and student achievements; and

- Achievement goals established by KSDE in the Consolidated State Plan submitted to the U.S. Department of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, including, but not limited to, the goal to have 75 percent of all students and student subgroups achieve proficiency on the statewide assessments in English language arts (ELA) and mathematics by 2030, which has been defined by the State Board as requiring students to score in performance levels 3 and 4 combined on such assessments.

Reporting of Recommendations

The bill requires the Task Force to prepare and submit a report to the Legislature and the Governor on or before January 11, 2027. The bill requires the report to include recommendations regarding:

- The establishment of a school finance formula that will replace the KSEEA after its expiration. When making such recommendations, the Task Force will be required to pursue the following goals for a school finance formula:
    - The formula shall be reasonably calculated to have all students meet or exceed the education goal established in KSA 72-3218(c) [*Note:* This goal is also known as the *Rose capacities*; this statute lists subjects and areas of instruction to be designated by the State Board to achieve the goal established by the Legislature to meet the graduation requirements adopted by the State Board];
    - The formula shall provide adequate, consistent, and reliable school funding;
    - The formula shall provide equitable school funding; and
    - The formula shall provide meaningful accountability measures;
- Whether revisions to the current methods for determining and disbursing Special Education State Aid are advisable or necessary; and
- Any other recommendations related to school finance.

Designation of Chairperson; Quorum; Meeting Information

The bill requires Task Force members to be appointed on or before November 30, 2024. The bill further requires, in even-numbered years, the Task Force chairperson to be designated by the Speaker of the House and the vice-chairperson to be designated by the President of the Senate. In odd-numbered years, the chairperson will be designated by the President, and the vice-chairperson will be designated by the Speaker of the House. The bill provides that any vacancy in the Task Force membership will be filled in the same manner prescribed for that member's original appointment.

The bill states that a quorum for the Task Force is six voting members. All actions of the Task Force are permitted to be taken by a majority of members present when there is a quorum. If the meeting is approved by the Legislative Coordinating Council (LCC), the Task Force members will be paid for expenses, mileage, and subsistence as provided in a statute governing board member compensation (KSA 75-3223(e)). The Task Force is permitted to meet at any time and any place within the state upon the call of its chairperson.

The bill also provides that the staff of the Office of Revisor of Statutes, Legislative Research Department, and Division of Legislative Administrative Services will provide assistance as requested by the Task Force.

The Task Force provisions of the bill expire on July 1, 2027.

Special Education Excess Costs; Determination and Formula

The bill amends and creates law governing the excess costs formula for K-12 education Special Education State Aid by requiring school districts to transfer the funding attributable to the special education funding within the district's local option budget (LOB) to the district's special education and related services fund; determine each individual school district's excess costs, using the same calculation methodology as for statewide excess costs; report each school district's excess costs amount and publish these amounts on the KSDE website; and provide an annual report to the designated legislative committees on or before January 31 of each year detailing the individual school district's excess costs and how the Special Education State Aid will be distributed.

Excess Cost Determination

The bill creates law requiring KSDE to determine each school district's excess costs before distributing Special Education State Aid. The process for determining each school district's excess costs will be the following:

- Calculate weighted full-time equivalent (FTE) students without At-Risk, Bilingual, Career Technical Education, Special Education, and Transportation weightings;
- Multiply the weighted FTE by BASE (base aid for student excellence);
- Divide this sum by unweighted FTE to find general education aid per student;
- Calculate Special Education FTE enrolled;
- Multiply the general education aid per student by the number of Special Education FTE students;
- Multiply the product immediately above by the school district's LOB authority percentage;
- Add the two previous amounts together for total general education funding for Special Education students;
- Calculate federal aid for Special Education;
- Calculate Medicaid and state hospitals funding for Special Education students;
- Add total general education funding for Special Education students, federal aid, and Medicaid and state hospitals funding together for the total deductions;
- Calculate estimated special education and related services expenditures; and
- Subtract total deductions from estimated special education and related services expenditures to determine Total Excess Costs.

The bill also directs the State Board to assign the costs of providing special education and related services by interlocal agreements or as members of cooperatives to each school district based upon the expenditures of a school district in comparison to the expenditures of all school districts within the interlocal or cooperative.

The bill also requires the State Board to annually:

- Report each school district's excess costs to the school district;
- Publish the excess costs determinations on the KSDE website; and
- Prepare and submit a report to the House Committee on K-12 Education Budget and Senate Committee on Education that includes school district excess costs and the Special Education distribution schedule.

Determination of State Aid for the Provision of Special Education

The bill modifies how statewide Special Education State Aid is determined as follows:

- Calculate weighted FTE student enrollment as provided on the Legal Max calculation from the KSDE without At-Risk, Bilingual, Career Technical Education, Special Education, and Transportation weightings;
- Multiply weighted FTE by BASE;
- Divide product by unweighted FTE to find general education aid per student;
- Calculate Special Education FTE enrolled;
- Multiply the general education aid per student by the number of Special Education FTE;
- Multiply the product by the statewide average LOB authority percentage;
- Add the two previous steps together for total general education funding for Special Education students;
- Calculate federal aid;
- Calculate Medicaid and state hospitals funding;
- Add total general education funding for Special Education students, federal aid, and Medicaid and state hospitals funding together for the total deductions;
- Calculate estimated Special Education expenditures;

- Subtract total deductions from estimated Special Education expenditures for total excess costs; and

- Multiply total excess costs by 92.0 percent.

Appropriation and distribution; maintenance of effort. The bill amends law governing Special Education State Aid and its computation to require the Legislature to appropriate at least $601.0 million for special education for FY 2025 and every fiscal year thereafter. The bill also requires the State Board to distribute $528.0 million, as was approved for FY 2024, based upon the statewide distribution system continuing in law and creates an equalization distribution schedule for any Special Education State Aid appropriated above the $528.0 million and distribute the difference under the State Board's distribution system.

Local Option Budget

The bill amends law governing School District State Aid and the LOB to require each school district to transfer a portion of its LOB fund to the district's special education fund. This amount would be proportionally equal to the amount of the school district's Total Foundation Aid that is attributable to the special education weighting.

At-Risk Accountability Plan and Improvement Goals, Reporting

The bill establishes requirements for school districts, starting in school year 2024-2025 for school districts selected for a two-year pilot program and in 2026-2027 for all school districts, to establish at-risk student accountability plans and annually report on at-risk student performance and show longitudinal academic improvement for those students. The bill also amends law governing a school district's at-risk education fund and reporting to the State Board to require the State Board to publish an online at-risk best practices resource list instead of publishing a list of approved evidence-based best practices; removes authorization of at-risk funds for provisional at-risk programs; adds and modifies existing definitions, including "above and beyond" and "evidence-based instruction"; requires summary reporting to legislative committees; and prohibits the State Board from revising or updating the ELA or mathematics curriculum standards until the state meets the State Board's goal of having 75.0 percent of all students score levels 3 or 4 on the ELA and mathematics assessments.

At-Risk Accountability Plan

The bill requires each participating school district to create and annually submit an at-risk accountability plan to the State Board, starting in school year 2024-2025 for the pilot program (and in school year 2026-2027 for the statewide program). The bill requires the plan to:

- Demonstrate the use of evidence-based instruction for at-risk students;

- Measure longitudinal academic progress in a quantitative manner;

- Establish and meet the quantitative student improvement goals for certain identified student cohort groups;

- Ensure that at-risk education fund moneys are expended in accordance with law by providing services above and beyond regular education services; and

- Continue the process of identifying certain student cohort groups (described below) and providing evidence-based instruction above and beyond that of regular education to such identified cohort groups until the school districts meet the State Board's goal of having 75.0 percent of all students score levels 3 or 4 on the ELA and mathematics state assessments.

Quantitative Measures

The bill requires the quantitative measures approved by the State Board to include only the following:

- ELA and mathematics state assessments;
- A formative assessment approved by the State Board;
- A summative assessment approved by the State Board; or
- The ACT or ACT WorkKeys assessments.

Student Cohort Groups; Pilot Program

The bill requires each participating school district, beginning in school year 2024-2025 for the pilot program (described below) and in school year 2026-2027 for all school districts (including those participating in the pilot program), to have two student cohort groups for its at-risk accountability program.

Pilot program for select school districts; State Board of Education. The bill establishes a two-year pilot program, commencing in school year 2024-2025, for ten school districts selected by the State Board for participation in the at-risk accountability plan program and cohort group metrics and reporting specified in the bill. The bill requires the State Board to select a diverse array of school districts with consideration given to a school district's size, location, student demographics, and level of staff participation and prior training in the science of reading.

Requirements for the cohort groups for both the pilot program and statewide program include:

- One cohort group will be in 3rd grade and an additional cohort group will be from any other grade K-8;

- One cohort group will be free lunch unless such cohort group is fewer than ten students, in which case another cohort group may be chosen;

- The other cohort group could be any cohort group used for state assessment purposes or at-risk students under the at-risk criteria;

- Each cohort group will have two, three, or four targeted supports or interventions chosen by the school district. The bill requires these supports or interventions to be chosen from the State Board's list of approved at-risk educational programs;

- Evaluations for the 3rd grade cohort group will be on two quantitative measures, one of which would be the ELA and mathematics state assessments and the other will be from the list of approved quantitative measures; and

- Evaluations for the other cohort group will be on two quantitative measures, one of which would be the ELA and mathematics state assessments if the grade will take the assessments, and the other will be from the list of approved quantitative measures. If no state assessments are being taken, the bill requires both measures to be from the list of approved quantitative measures.

Longitudinal Study

The bill requires each school district to conduct a four-year or five-year longitudinal evaluation of each cohort group in ELA and mathematics. Each school district is directed to establish a quantitative goal for each cohort group and track the progress of the two cohort groups using state assessment scores and an additional goal chosen by the school district to determine whether the goals are being met or exceeded. Additionally, the school districts will not be able to revise the stated quantitative goals once set.

The bill also requires each school district to continue the practice of identifying cohort groups and providing evidence-based instruction to those cohort groups until the school district achieves the State Board's goal of having 75.0 percent of all students score a level 3 or 4 on the state assessments for ELA and mathematics.

Failure to Achieve Stated Goals

The bill outlines consequences for the failure to achieve the goals set by the school district. Beginning in school year 2030-2031, these consequences will include:

- If the cohort group did not meet or exceed the goals, the State Board will be required to deem the school district as not meeting at-risk improvement requirements on the district's at-risk student achievement report published on the State Board's website. This determination would remain until a new cohort group in the applicable starting grade level meets or exceeds the goals;

- If the cohort group did not meet or exceed the quantitative goals in the initial evaluation period, the school district will have one more year to further evaluate that cohort group's progress;

- If one cohort group fails to meet or exceed the goals at the end of the one additional school year, the school district will not be entitled to receive the full amount of state aid attributable to the at-risk and high-density at-risk weightings. Instead, the school district would receive half of the BASE aid increase plus the prior year's BASE aid amount for the at-risk and high-density at-risk weightings for funding purposes; and

- If both cohort groups fail to meet or exceed the goals at the end of the one additional school year, the at-risk and high-density at-risk weightings would use the prior year's BASE aid amount for funding purposes.

Reporting by School Districts to the State Board of Education

The bill requires each school district to annually report to the State Board the following information:

- The school district's at-risk accountability plan;
- Current progress on achieving the at-risk accountability plan;
- A report of the expenditures made from the school district's at-risk education fund, which must be submitted:
  - In school years 2024-2025 and 2025-2026 by the school districts participating in the pilot program; and
  - In school year 2026-2027 and each subsequent school year, by all school districts;
- An estimate of whether the school district expects to meet or exceed the longitudinal academic improvement goals established by the school district;
- The at-risk programs, services, resources, and targeted support and interventions from the list of approved programs that are used by the school district to provide evidence-based services above and beyond regular education services;
- The number of at-risk students identified and served; and
- The data and research the school district used to determine the at-risk programs and services.

The bill also permits each school district to submit a narrative with the district's at-risk student achievement report.

For the statewide program, the bill requires the State Board to publish information reported by school districts on the KSDE website, underneath a link titled "accountability reports." Each school district is also be required to provide the individual school district's at-risk accountability plan on the school district's website.

Reporting by the Kansas State Department of Education to the Legislature

The bill requires KSDE to prepare and submit a summary of the reports from the school districts to the House Committee on K-12 Education Budget and Senate Committee on Education on or before January 31 each year.

Expenditures of At-Risk Funding

The bill amends law pertaining to at-risk funding to require provisional at-risk programs to be subject to school district review while the program is implemented to evaluate whether the program is producing or is likely to produce measurable success and, if the program satisfies the State Board's requirements, it will be added to the list of approved at-risk educational programs.

The bill further provides if the State Board removes any program or service from its list, a school district that is implementing such program or service may apply to the State Board to continue to make expenditures from the district's at-risk education fund to continue to implement such program or service. The bill directs the State Board, when considering a district's application to continue such program or service, to require a district to demonstrate that either of the following improvements are directly attributable to the program or service:

- Academic improvement in either mathematics or ELA has occurred; or

- There has been an improvement in attendance, college and career readiness measures, or the education climate through a showing of a measurable decrease in detentions, expulsions, tardiness, or other behavioral issues that hinder student learning.

The bill amends and establishes definitions for terms including:

- "Above and beyond," to mean an at-risk education program or evidence-based instruction or practice that is provided in excess of regular educational services and based on the needs of students identified as at-risk and may provide a collateral benefit to students who are not identified as at-risk without any additional costs;

- "At-risk educational program," to mean an at-risk program or service that is identified and approved by the State Board as providing evidence-based instruction to students who are identified as eligible to receive at-risk programs and services above and beyond regular educational services;

- "Evidence-based instruction," to mean an education delivery practice based on peer-reviewed research that consistently produces better student outcomes over a one-year period than would otherwise be achieved by the same students who are identified as eligible for at-risk programs and services; and

- "Provisional at-risk educational program," to mean an education delivery practice that is identified or developed by a school district as a program or service that is:

    - Provided to students who are eligible to receive at-risk programs and services above and beyond regular educational services;

    - Producing or is likely to produce better student outcomes;

    - Subject to school district review to evaluate whether such program provides evidence-based instruction; and

- Placed on the State Board's list of approved at-risk educational programs if the provisional at-risk educational program is shown to provide evidence-based instruction to students who are identified as eligible for at-risk programs and services.

Maintaining Current ELA and Mathematics Standards

The bill amends statewide assessment law to prohibit the State Board from substantially revising or updating ELA or mathematics standards in effect as of July 1, 2024, in a manner that would require developing new statewide assessments in ELA or mathematics subject areas until the Board's goal of having 75 percent of all students score a level 3 or 4 combined on the ELA and mathematics state assessments by 2030 is met.

School District Open Enrollment, Priorities

The bill creates law supplemental to open enrollment provisions in the KSEEA to require school districts to give priority to non-resident students who reside in Kansas over non-resident students from another state, except in certain circumstances, provides for continued enrollment for non-resident students in a school district until the student graduates from high school, and amends the timeline for applications and responses by school districts to applying students.

The bill also specifies that neither the resident or receiving school district is responsible for transportation unless required by applicable law, excludes virtual schools from the open enrollment statutes, directs the Legislative Post Audit Committee to call for audits of non-resident student transfers only if certain committees request such audit, modifies the definition of "non-resident student," and requires student transfer policy revisions to be published on a school district's website.

Non-resident Open Enrollment Priority

The bill requires school district boards of education to prioritize non-resident students who reside in Kansas for open enrollment applications. If there are open seats in the school district after the Kansas non-residents have applied for a transfer, then students from outside Kansas will be permitted to apply for those remaining open spots. The bill includes an exception for certain students who are residents of other states: if a parent, or person acting as a parent, is employed by the school district, that student would be allowed to enroll and attend said school district without going through open enrollment.

The bill also amends the open enrollment application period for the next school year to be between January 1 of the preceding school year and June 15th of such school year. It also adds July 30 of each school year as the last day for school districts to notify parents of the reason for non-acceptance or denial of a non-resident student.

The bill also provides that any student enrolled as a non-resident in a school district during the school year 2023-2024 will be permitted to continue their enrollment and attendance in that school district as long as the student is deemed to be in good standing. Such students would not be required to go through the lottery process to remain enrolled at the school district in the 2024-2025 school year. These provisions apply to both students who are enrolled in schools outside their school district and for students who are enrolled in a different school within

their school district instead of their school of residency in the 2023-2024 school year. The bill also clarifies that a non-resident student who is deemed to be not in good standing could be denied enrollment or continued enrollment in the school district.

Additionally, the bill specifies that neither the receiving nor the resident school district of a non-resident student is required to provide transportation to the student unless otherwise required by applicable law and would exclude virtual schools from the open enrollment requirements.

The bill amends law requiring that the Legislative Post Audit Committee direct the Legislative Division of Post Audit (LPA) to conduct an audit of non-resident student transfers in calendar year 2027 to instead state the Legislative Post Audit Committee would direct LPA to perform this review in 2027 upon the request of the House Committee on K-12 Education Budget or the Senate Committee on Education.

The bill also requires student transfer policy and any revisions to the policy to be published on a school district's website. The bill also changes the definition of "non-resident student" to specify that it is a child of school age pursuant to school attendance requirements in law (KSA 72-3118) who resides in Kansas and wishes to attend a school located in a school district where the student is not a resident.

School District Building Closure and Land Acquisition Process

The bill amends law governing the disposal of a school district building and the procedures and notification requirements on school district boards of education seeking to dispose of or sell a school district building. The bill also modifies the definition of a school "building."

Definition of Building

The bill defines "building" to mean any building that was used in any prior school year as an attendance center for students enrolled in K-12.

Notice of Disposition; Legislature's Right of First Refusal

Legislative process. Under continuing law, a school district is required to submit written notice to the Legislature when the school district intends to dispose of a school district building. If such notice is received during the regular legislative session, the Legislature has 45 days to adopt a concurrent resolution stating its intention for the State to acquire the building. When the Legislature is not in regular session, the law provides the Legislature has 45 days from the beginning of the next regular session to declare its intent. If the Legislature does not adopt a concurrent resolution within the applicable 45-day period, the school district is authorized to proceed with disposition of the building.

The bill provides that when the Legislature is not in regular session, the LCC, within 45 days of receiving notice to the Legislature, may deny the legislative option specified in law to acquire the school district building. If the LCC denies the legislative option, the provisions pertaining to adoption of a concurrent resolution and a state agency's completion of acquisition

of the building will not apply, and the school district would be permitted to proceed with disposing of the building in accordance with state law.

Further, if the LCC does not deny the legislative option within the 45-day period, the Legislature would have 45 days from the commencement of the next regular session to adopt a concurrent resolution as prescribed in continuing law.

State agency acquiring the building pursuant to adopted concurrent resolution. Under continuing law, if the Legislature adopts a concurrent resolution within the 45-day period, the state agency named in the resolution has 180 days to complete the acquisition of the school district building and take title to the real property. Upon the request of the acquiring state agency, the LCC is permitted to extend the 180-day period for a period of no more than 60 days.

The bill provides when the Legislature does not adopt a concurrent resolution within the 45-day period or when the state agency does not take title to the property within the 180-day period (or its extension), the school district board may dispose of the property in such manner and upon such terms and conditions as the school board deems to be in the best interest of the school district.

Disposition of School Buildings

Prohibition. The bill prohibits a school district board of education disposing of a building from refusing to sell, lease, or convey any interest in a building or property to a prospective buyer or lessee solely because the prospective buyer or lessee may use or intends to use the building or property as a nonpublic school building.

Virtual School State Aid Determinations; Adult Learners

Virtual School State Aid, Ages 19 and Under

The bill changes the formula for determining Virtual Student State Aid as follows:

- Determine the number of FTE enrollment rather than the headcount of students enrolled in the virtual school, excluding those over the age of 19 who qualify for virtual school state aid and those who are 19 years or younger who qualify for virtual school state aid as a dropout diploma completion virtual student and multiply that FTE count by $5,600;

- Determine the number of one-hour credit courses reported on the Kansas collection KCAN report for students who are 19 years of age or younger who qualify for virtual school state aid as a dropout diploma completion virtual student, not to exceed 6 hours for each student, and multiple the total by $709; and

- Add the two amounts together to get Virtual Student State Aid.

For the purposes of funding, a virtual student who is a non-resident of Kansas will not be counted in the FTE enrollment of the virtual school. The bill requires the virtual school to record the permanent address of each student enrolled in the virtual school.

The bill removes definitions for "full-time" and "part-time" applicable to virtual school students.

Virtual School State Aid Determination—Adult Learners

The bill amends provisions of the Virtual School Act to establish additional requirements related to the determination of Virtual School State Aid for adult learners. The bill requires the State Board, when determining Virtual School State Aid for certain adult students, to:

- Determine the number of one-hour credit courses reported on the Kansas collection KCAN report that students have passed to meet the minimum graduation requirements established by the State Board of the local school district board of education;

- Validate course completion using official student transcripts; and

- Multiply the total number of courses by $709, not to exceed six credit courses per school year.

The bill prohibits the State Board from deducting any Virtual School State Aid for adult students and dropout diploma completion students for courses completed by students in the school year that precedes the school year in which such state aid is determined. The bill further provides that if the State Board does deduct any Virtual School State Aid, such deductions could only be made with respect to individual courses. The State Board will also be required to publish any audit methodology used to determine and verify Virtual State Aid entitlements on its website.

Public School Financing System; Financing Resources

The bill updates a reference in the statute governing the public school financing system that addresses appropriations to programs that provide individualized support to students enrolled in unified school districts and assist with achievement of the goal stated in the statute addressing accredited schools and mandatory subjects and areas of instruction and educational capacities (*Rose capacitie*s). The bill also modifies one of the three examples of programs specified in the law to replace "Communities in Schools" with "SparkWheel."

Virtual School Participation in KSHSAA Activities

The bill permits a virtual student to participate in Kansas State High School Activities Association (KSHSAA) activities as long as the student:

- Is a resident of the school district;

- Is enrolled and attending a virtual school as defined in continuing law;

- Complies with health-related requirements (KSA 72-6262 and amendments thereto);
- Meets applicable age and eligibility requirements set forth by KSHSAA;
- Pays any fees required by the school district for participation in such activity; and
- Seeks to participate at the appropriate school within the school district corresponding to where the student resides.

Enrollment

A virtual student will not be required to enroll or attend a minimum number of courses at the resident school district unless the school district board has that requirement for all other students who participate in the activity.

The bill also removes the July 1, 2023, sunset for provisions authorizing participation in KSHSAA activities by certain students.

Kansas Blueprint for Literacy and Other Education Provisions; SB 438

SB 438 establishes the Kansas Blueprint for Literacy (Blueprint), creates the Literacy Advisory Committee (Committee or Advisory Committee), creates the position of Director of Literacy within the State Board of Regents, defines the powers and duties of the Advisory Committee, and makes appropriations to State Board of Regents; establishes a required report from the Kansas State Department of Education (KSDE) regarding student statewide assessment scores and postsecondary achievement; modifies the Accelerating Opportunity: Kansas (AO-K) career pathways assistance benefit; and makes various changes to the Kansas Education Opportunity Scholarship, Kansas Hero's Scholarship, and Kansas Nursing Service Scholarship, administered by the State Board of Regents.

Findings

The bill makes three findings regarding making literacy a priority as an investment to support families and businesses and to continue the advancement of the Kansas economy and prosperity for Kansans. The support of a comprehensive approach to equipping Kansas educators with training in the science of reading, structured literacy, and literacy screening and assessment tools is described as essential.

Kansas Blueprint for Literacy

Appropriations to the State Board of Regents

The bill appropriates $10.0 million in FY 2025 to the State Board of Regents for purposes of implementing the Blueprint. This appropriation includes a proviso establishing the following restrictions:

- Failure by a postsecondary educational institution to meet the deadline of August 2024 for the creation and implementation of two three-credit hour applied application courses, to include such courses within the approved graduation requirements to earn a degree in elementary education, and to implement a common performance-based assessment for such courses will result in the lapsing of the following funding amounts for each institution that fail to meet the deadline:
    - $1.0 million for Kansas State University, University of Kansas, or Wichita State University; and
    - $500,000 for Emporia State University, Fort Hays State University, or Pittsburg State University;
- No expenditures shall be made for the purposes of developing said required courses and assessments.

Citation of Blueprint; Appropriations; Definitions

The bill designates New Sections 1–8 as the Blueprint and provides that each section's provisions requiring expenditure of moneys is subject to legislative appropriations.

Definitions. The bill establishes definitions for the following:

- "In-service" means a licensed individual who is employed by a school district or accredited nonpublic school as a teacher;
- "Postsecondary education institution" means:
    - A state educational institution, as defined in law pertaining to the State Board of Regents and management and operation of state educational institutions: University of Kansas, Kansas State University of Agriculture and Applied Science, Wichita State University, Emporia State University, Pittsburg State University, and Fort Hays State University;
    - A municipal university (*i.e.*, Washburn University); and
    - Any not-for-profit institution of postsecondary education that has its main campus or principal place of operation in Kansas, is operated independently and not controlled or administered by a state agency or subdivision of this state, maintains open enrollment, and is accredited by a nationally recognized accrediting agency for higher education in the United States;
- "Pre-service" means an individual who is receiving the education and training to become a licensed teacher but is not yet licensed;
- "Science of reading" means the teaching of reading using evidence-based research that includes phonemic awareness, phonics, fluency, vocabulary, and comprehension; and

- "Structured literacy" means the application of knowledge from the science of reading that teaches reading in an evidence-based and systematic way.

Literacy Advisory Committee

The Blueprint creates the Advisory Committee. The Committee is assigned duties and responsibilities including the submission of a plan to the State Board of Regents on the establishment of Centers of Excellence in Reading on or before January 1, 2025. [*Note:* Additional duties and responsibilities are detailed following membership information.]

Voting membership. The Advisory Committee will consist of the following 15 voting members:

- The Director of Literacy Education (Director), who is appointed by the Executive Officer of the State Board of Regents, and will serve as chairperson of the Advisory Committee;

- One member appointed by the Governor;

- One member of the House of Representatives, or a literacy expert, appointed by the Speaker of the House;

- One member of the House of Representatives, or a literacy expert, appointed by the Minority Leader of the House of Representatives;

- One member of the Senate, or a literacy expert, appointed by the President of the Senate;

- One member of the Senate, or a literacy expert, appointed by the Minority Leader of the Senate;

- One member appointed by and representing the Kansas National Education Association;

- One member appointed by and representing a school of education from Emporia State University, Fort Hays State University, or Pittsburg State University;

- One member appointed by and representing a school of education from the University of Kansas, Kansas State University, or Wichita State University;

- One member appointed by and representing the Washburn University School of Education;

- One member appointed by the Kansas Association of Community Colleges to represent community colleges;

- One member appointed by the Kansas Independent Colleges Association to represent a not-for-profit institution of postsecondary education school or college of education;

- One member appointed by the State Board of Education;

- One member of the State Board of Regents appointed by the State Board of Regents; and

- One member who is an expert in English for speakers of other languages (ESOL) literacy appointed by the United School Administrators of Kansas.

Nonvoting membership. The Blueprint also designates the following nonvoting members:

- The Commissioner of Education, or the Commissioner's designee; and
- Any number of members appointed by the Director.

Terms of membership and meetings. The bill authorizes the Committee to meet at any time and any place within the state upon the call of the chairperson.

The bill requires members to be appointed on or before July 1, 2024, and voting members, except the Director, will serve four-year terms.

Any vacancy in the membership of the Committee will be filled by appointment in the same manner as the original appointment. The bill further specifies that any member of the Committee who misses three meetings in a 12-month period will be terminated and a new member appointed.

The bill also provides that any legislative member, or member appointed by a legislative member to the Committee, will receive compensation, subsistence allowances, mileage, and other expenses as provided under KSA 75-3223. Any other member will be reimbursed by that member's appointing authority.

The bill states that staff of the State Board of Regents, Office of Revisor of Statutes, Legislative Research Department, and Division of Legislative Administrative Services will provide assistance as may be requested by the Committee.

Duties and responsibilities. The Blueprint requires the Committee to:

- Monitor progress of literacy training for in-service and pre-service teachers and literacy education of elementary and secondary students;

- Designate best practices for literacy training for in-service and pre-service teachers and literacy education of elementary and secondary students;

- Be responsible for achieving the goal to have 100.0 percent of the Kansas elementary teacher workforce achieve a micro-credential in the science of

reading and structured literacy by 2030, leading to 50.0 percent or more of 3rd through 8th graders achieving level 3 or above and at least 90.0 percent of 3rd through 8th graders achieving level 2 or above on the English language arts state assessment by 2033;

- Make recommendations to the Director;

- Make recommendations to the State Board of Education, State Board of Regents, and the postsecondary educational institution presidents or chancellors on:

    - Literacy training for in-service and pre-service teachers and literacy education of elementary and secondary students; and

    - Reading instruction methods based on the science of reading;

- Make recommendations to the House Committee on Education and Senate Committee on Education on the implementation and any changes necessary to achieve of the goals of the Blueprint;

- Submit a plan to the State Board of Regents on the establishment of the Centers of Excellence in Reading, as outlined in New Section 8 of the bill, on or before January 1, 2025; and

- Annually report Committee progress to the Legislature on state assessment progress for each grade level and all defined subgroups including, but not limited to, English language learners, students who received free meals pursuant to the National School Lunch Act, students in the custody of the Secretary for Children and Families, and race and ethnicity subgroups, at these time intervals:

    - Once on or before February 1 to the House Committee on Education and Senate Committee on Education;

    - Once on or before May 1 to the House Committee on Education and Senate Committee on Education; and

    - Once on or before December 1 to any interim, special, or select committee, task force, or commission that has membership that includes legislators, is related to education, has been approved by the Legislative Coordinating Council, and requests such report.

The bill requires the Committee to be subject to the Kansas Open Meetings Act and the Kansas Open Records Act and publish each meeting agenda and available meeting documents online prior to each scheduled meeting.

Director of Literacy

The Blueprint requires the Executive Officer of the State Board of Regents to appoint the Director on or before July 1, 2024. In addition to the previously mentioned duties assigned to the Committee and role of this appointee, the Director is required to:

- Implement and administer the Blueprint;
- Provide executive support to the Committee;
- Work with the State Board of Education and the State Board of Regents to ensure:
    - Progress on the initiatives, objectives, and desired outcomes in the Blueprint;
    - The development and utilization of the comprehensive assessment system; and
    - Postsecondary educational institutions and elementary and secondary schools are using tier I literacy methodologies;
- Encourage independent institutions to use tier 1 methodologies;
- Establish a program to track the science of reading and structured literacy training progression of in-service and pre-service early childhood and elementary teachers, special education teachers and paraprofessionals, reading specialists, and early childhood and elementary administrators for all school districts in the state;
- Annually report, on or before January 15, to the House Committee on Education and the Senate Committee on Education on the implementation and administration of the Blueprint, including an implementation timeline, progress of initiatives, development and utilization of the comprehensive assessment system, progress toward the established goals, use of tier I methodologies, outcomes, and any proposed changes; and
- Report, on or before January 31, 2025, to the House Committee on Education and the Senate Committee on Education on the State Board of Regents' progress on utilization of the science of reading, elimination of discredited methodologies, use of universal screening measures, and assessments in elementary and secondary schools in the state.

Postsecondary Education Institutions; Comprehensive Reading and Literacy Assessment System

The bill requires postsecondary educational institutions to designate practices based on the science of reading through structured literacy as the official tier I literacy methodology and prohibits the use or teaching of any discredited methodologies, such as the three-cueing system.

Comprehensive reading and literacy assessment system. The Blueprint directs the State Board of Regents, in collaboration with postsecondary educational institutions and research experts, to establish a comprehensive reading and literacy assessment system (comprehensive assessment system) with universal screening measures and diagnostic,

formative, and summative assessments to be used in teacher preparation programs in this state. The bill requires the comprehensive assessment system to allow teachers to adjust instruction to meet the specific needs of students, including with regard to reading difficulties and the remediation of reading and literacy skill gaps. The bill requires the State Board of Regents to make recommendations to the State Board of Education on the comprehensive assessment system and ensure that the system is available on or before May 1, 2025.

The bill further directs the State Board of Regents to:

- Develop training modules for the assessments on or before July 1, 2025;
- Support State Board of Education action to officially designate the science of reading as the official tier I literacy methodology;
- Support elementary and secondary schools as necessary to eliminate any discredited methodologies;
- Recommend literacy-specific universal screening measures and diagnostic, formative, and summative assessments to the State Board of Education; and
- Approve reading instruction methodologies recommended by the Advisory Committee for state educational institutions.

The bill further prohibits, on or after July 1, 2025, school districts from using any textbooks or instructional materials that utilize:

- The three-cueing system model of reading as the primary basis for teaching word recognition;
- Visual memory as the primary basis for teaching word recognition; or
- The three-cueing system model of reading based on meaning, structure, and syntax and visual cues (MVS).

The bill also states that nothing included within this section shall be construed to include the English language arts statewide assessments.

Professional Development; Micro-credential or Certification Requirements

The Blueprint requires the State Board of Regents and the State Board of Education to collaborate to:

- Jointly approve micro-credential requirements for in-service teachers or certification requirements for pre-service teachers at state educational institutions in the science of reading and structured literacy;
- Develop or make accessible professional development programs and micro-credential courses for all in-service early childhood teachers, general education

teachers, and special education teachers at low or no cost to such teachers. The bill requires such programs and courses to be delivered by national online learning programs or accredited postsecondary educational institutions;

- Ensure all pre-service teacher preparation programs at state educational institutions are based on the science of reading and structured literacy;

- Publish standards and course progressions to achieve transparency of Kansas reading education programs; and

- Provide data for the program to the Director that tracks the science of reading and structured literacy training progression of in-service and pre-service early childhood and elementary teachers, special education teachers and paraprofessionals, reading specialists, and early childhood and elementary administrators for all school districts in the state.

Postsecondary Educational Institutions

The bill provides that the president or chancellor, provost, and dean of the college or school of education of each postsecondary educational institution jointly have oversight and supervision of undergraduate- and graduate-level reading and literacy courses at their respective institutions and must:

- Ensure explicit courses in the science of reading and structured literacy, including the five pillars of reading for all undergraduate early childhood and elementary teacher preparation programs at state educational institutions;

- Appoint one representative from each postsecondary educational institution to conduct an annual systemwide analysis of the curriculum maps across all literacy courses;

- Require such analysis to include identifying clear evidence of instructional approaches and the core components of reading development; and

- Present a report on such systemwide analysis and any results from such analysis to the Advisory Committee;

- Design and implement two three-credit-hour applied application courses that the bill would require to be included within the approved graduation requirements to earn a degree in elementary education on or before August 2024;

- Implement a common performance-based assessment for such courses to be used by all postsecondary educational institutions on or before August 2024;

- Assist in the development of a science of reading and structured literacy micro-credential for early childhood teachers, elementary education teachers, ESOL teachers, reading specialists, special education teachers and paraprofessionals,

and early childhood and elementary administrators that focuses on research-based fundamentals of reading instruction; and

- Provide information to the Advisory Committee.

Centers of Excellence in Reading

The Blueprint also directs the Advisory Committee to develop a plan to establish six regional centers of excellence in reading (Centers). The bill requires that such plan:

- Provide evaluation and identification of reading difficulties and reading disabilities;

- Collaborate with school districts to develop strategic literacy plans for individual students;

- Collaborate with the KSDE, State Board of Regents, and postsecondary educational institutions to support pre-service and in-service teacher training;

- Support the professional development and training of school-based instructional coaches;

- Pilot structured reading applied learning simulation laboratories for pre-service and in-service teachers;

- Pilot a literacy education simulation training laboratory for pre-service elementary teachers as a controlled environment for the application of the science of reading;

- Identify projected costs, staffing, and budget impacts to develop, expand, and sustain the Centers and reading simulation laboratories; and

- Make recommendations and provide progress reports to the Advisory Committee.

Annual Report on Postsecondary Success

The bill requires the State Board of Education, on or before January 15 of each year, to prepare and submit a report to the Legislature on students who have taken the statewide assessments. The report must include the following:

- The number and percentage of students who took the statewide assessments during the prior school year broken down by core academic area (English language arts, mathematics, and science) by grade level; and

- The percentage of students who took the statewide assessment in grade 10 and who obtained some postsecondary education two years after graduation from high school, broken down by statewide achievement level.

The bill also requires the State Board of Education to publish the information required for the report on the KSDE website and include such information in the performance accountability reports and longitudinal achievement reports required under continuing law.

The provisions of the bill requiring this report will expire on July 1, 2029.

Kansas Education Opportunity Scholarship Program Act

The bill replaces the Kansas Ethnic Minority Scholarship Program with the Kansas Education Opportunity Scholarship Program Act.

Student Eligibility

To be eligible for a Kansas Education Opportunity Scholarship, the bill requires a student to:

- Be a Kansas resident;
- Have been accepted for admission to or is enrolled full-time in an educational program at an eligible institution;
- Have established financial need; and
- Meet one of the following criteria:
    - Be a first generation student as defined by the bill;
    - Have a parent who is employed in Kansas as a teacher or paraprofessional for any of the grades pre-K through 12; or
    - Have previously qualified and remains qualified for the renewal of a Kansas Education Opportunity Scholarship on the basis of maintaining full-time enrollment in an educational program at an eligible institution, remaining in good standing, and making satisfactory progress toward completion of the requirements for the award of a degree or certificate of completion.

Technical and Conforming Amendments

The bill removes all references to the Kansas Ethnic Minority Program and makes additional technical and conforming changes.

Nursing Service Scholarship Program

Nursing Service Scholarship Limit and Allocation

The bill removes the limit on the number of nursing service scholarships that may be awarded each year. The bill also removes provisions requiring a certain number of the scholarships to be awarded to nursing students whose sponsors are located in rural areas, who are enrolled in a course of instruction leading to licensure as a registered professional nurse, and who are enrolled in a course of instruction leading to licensure as a licensed practical nurse. The bill changes the priority for awarding scholarships to be those qualified applicants with the greatest financial need.

Sponsorship

The bill makes the following amendments to the provisions of the Nursing Service Scholarship Program (Program) pertaining to sponsors:

- Amends the definition of the term "sponsor" to mean any of the following that is located in a rural opportunity zone (ROZ), as defined by continuing law:
    - An adult care home licensed under the Adult Care Licensure Act;
    - A licensed medical facility;
    - A licensed home health agency;
    - A local health department;
    - A mental health or treatment facility; or
    - A state agency that employs licensed practical nurses or licensed professional nurses;

- Makes sponsorship by a sponsor optional for an individual's eligibility for the scholarship;

- Amends the amount of the scholarship a recipient, who has a sponsor, could receive to 125.0 percent of the amount established annually by the State Board of Regents; and

- Requires a scholarship recipient who has a sponsorship agreement to engage in the practice of nursing in the employment of such sponsor for the length of time the recipient received scholarship assistance or until fulfilled as otherwise required by law.

[*Note:* The maximum scholarship amounts for the Program are $3,500 per school year for recipients enrolled full-time in a licensed practical nurse program and $4,500 per school year for recipients enrolled full-time in a registered nurse program.]

Terms of the Scholarship Agreements with State Board of Regents

The bill makes changes to the scholarship agreement entered into by the State Board of Regents and the scholarship recipient by requiring the scholarship recipient to:

- Within six months of completing the required course of instruction, attain licensure with the Board of Nursing as a licensed professional nurse or licensed practical nurse;

- Complete the Free Application for Federal Student Aid (FAFSA) for each academic year in which scholarships funds are awarded under the agreement; and

- Within six months of attaining licensure, engage in the full-time or part-time practice of nursing in Kansas for the following durations:

    - For full-time practice, the total amount of time required under the agreement, which must be for a period of no less than the length of time the recipient received scholarship assistance; or

    - For part-time practice, the total amount of time required under the agreement, which must be for a period of time that is equal to full-time, as determined by the State Board of Regents, multiplied by the length of the time the recipient received scholarship assistance.

[*Note:* A scholarship recipient who has a sponsor is required to engage in the practice of nursing in the employment of the sponsor in accordance with the sponsorship agreement for the length of time the recipient received scholarship assistance or until fulfilled as otherwise required by law.]

Failure to satisfy the service requirement of the scholarship agreement with the State Board of Regents will result in a scholarship recipient having to pay the Board an amount equal to the scholarship amount received plus interest. The bill changes the interest rate to 5.0 percent per annum, and the interest would begin accruing on the date the obligation to repay commenced.

Nursing Service Scholarship Review Committee

The bill abolishes the Nursing Service Scholarship Committee (Scholarship Committee). The bill also removes the definition of the term “Committee.”

Rules and Regulations

The bill no longer requires the State Board of Regents to consult with the Scholarship Committee before adopting rules and regulations as necessary to administer the Program.

AO-K Program

The bill allows all students in an AO-K Program to receive the AO-K assistance benefit, rather than only those pursuing high school equivalency. The bill limits the payment provided for each student to no more than $500 over the lifetime of the student. [*Note:* The AO-K Program is a career pathways program model that assists students in obtaining a high school equivalency, becoming ready for transferable college-level courses, and earning an industry credential.]

Kansas Hero's Scholarship Act

The bill amends the Kansas Hero's Scholarship Act to expand the number of eligible recipients who may receive financial assistance.

The bill makes the following changes to the eligibility requirements:

- Removes provisions limiting eligibility to dependents and spouses of those who served as a member of the military after September 11, 2001; and

- Clarifies provisions pertaining to military service members who died while in military service or sustained an injury or disability that rendered the service member incapable of continuing such service.

The bill also adds a provision requiring the State Board of Regents to establish an aggregate limit for financial assistance under this act each year based on the annual appropriated amounts for paid reimbursements. The bill removes the reimbursement limit of $500,000 per year for educational institutions.

Renaming Kansas State Polytechnic; SB 481

SB 481 renames the Kansas State University Polytechnic Campus as Kansas State University Salina in law concerning state educational institutions.

Removing DEI from Postsecondary Institutions; HB 2105

HB 2105 prohibits postsecondary institutions from taking certain actions concerning diversity, equity, or inclusion (DEI).

Definitions

The bill defines "postsecondary educational institution" to mean any public university, municipal university, community college, and technical college, including any entity resulting from the consolidation or affiliation of any two or more of such postsecondary educational institutions.

Pledge or Statements

The bill prohibits postsecondary educational institutions from requiring an application for admission, hiring, or promoting a faculty member to make a statement of personal support or opposition to any political ideology or movement, including a statement regarding DEI.

The bill also prohibits postsecondary educational institutions from denying or accepting admission or educational aid to a student; hiring an applicant for employment; or hiring, reappointing, or promoting faculty on the basis of viewpoints expressed in a pledge or statement, including a pledge regarding DEI.

Exclusions

The bill:

- Does not prohibit any student or faculty member from complying with federal or state law pertaining to anti-discrimination law or from taking action against any student, faculty, or employee for violations of the law;

- Should not be construed to limit or restrict the academic freedom of faculty or to prevent faculty members from teaching, research, or writing publications about DEI or other topics; or

- Does not prohibit the institution from considering, in good faith, a faculty member's scholarship, teaching, or subject matter expertise in the faculty member's academic field.

Training Materials

The bill requires each postsecondary educational institution to share publicly on such institution's website all training materials used for students and faculty on matters of non-discrimination, DEI, race, ethnicity, sex, or bias and such institution's policies and guidance on such matters.

Investigation of Complaints

The bill requires the State Board of Regents (Board) to investigate a complaint on behalf of any person who believes their rights were violated. The Board is required to complete an investigation to determine whether a violation has occurred within 45 days of receipt of the complaint. If the Board determines the postsecondary educational institution is in violation, the institution must remedy the violation within 90 days, and if the institution should fail to remedy the violation within 90 days, the Board will be required to report the incident to the Attorney General, who may file action in district court against the institution.

The bill requires that if the Board determines the institution was not in violation of the bill, the person who believes their rights were violated may file a compliant with the Attorney General, who would be required to investigate the complaint within 45 days of receipt. If the Attorney General indicates there has been a violation, the institution would have 90 days to

remedy the violation. If the institution fails to remedy the violation within 90 days, the Attorney General may file an action in district court against the institution.

Legal Proceedings; Penalties

The bill also requires that any action pertaining to the violation of the bill be filed in the district court of the postsecondary education institution's primary campus location. The bill allows the district court of any county to have jurisdiction to enforce any findings or violations. The district court will be allowed to take actions such as:

- Requiring the institution to comply;
- Imposing a civil penalty of $10,000 per violation; and
- Requiring the institution to pay for expenditures incurred by the Attorney General for enforcing the violation.

The bill requires that any civil penalties assessed by the district court be remitted to the State Treasurer and the funds received be credited to the State Scholarship Program account.

Website Posting; Disciplinary Action

The bill requires that within 10 days after a determination has been made by the Board on whether a violation has occurred, the findings and outcomes of the Board be posted on its website.

If the postsecondary educational institution or any affiliated participants are found in violation of the bill, such institution may take disciplinary action against responsible parties.

Report to the Legislature

The bill requires, by January 12, 2026, and on the first day of each regular session thereafter, the Board submit a report to the Legislature on the:

- Number of complaints filed with the Board;
- Outcomes of the Board's investigations;
- Number of complaints filed with the Attorney General;
- Outcomes of the Attorney General's investigations;
- Number of cases filed in district court;
- Outcomes of cases filed;
- Number and dollar amounts of the civil penalties;
- Costs by the Attorney General, and
- Other information deemed important by the Board.

Adding Foster Care Student Eligibility for At-risk Programs; HB 2703

HB 2703 adds students in the custody of the Secretary for Children and Families to the list of students identified as eligible to receive at-risk programs and services.

Reaffirming Support and Cooperation with the State of Israel; HR 6030 and SR 1729

HR 6030 and **SR 1729** make findings concerning warfare between Hamas and the country of Israel and related security issues for Kansas Jewish communities.

The resolutions state the Kansas House of Representatives and the Senate condemn the unprovoked attacks on the State of Israel, demand the unconditional safe return of hostages, and that they unequivocally support Israel's right to exist, defend itself, and protect its citizens from terrorism and harm.

The resolutions also make statements regarding the responsibility of Hamas for violence and attacks that began on October 7, 2023, and that the House of Representatives rejects all forms of anti-semitism, including threats against Jewish people and institutions.

The resolutions direct the Chief Clerk of the House of Representatives and the Secretary of the Senate to send enrolled copies of the resolution to the Consul General of Israel in Miami, and leaders of the American Jewish Committee/Jewish Community Relations Bureau Kansas City, and the Jewish Federation of Greater Kansas City.

Supporting Texas Regarding Illegal Immigration; HR 6035 and SR 1737

HR 6035 and **SR 1737** make findings concerning unlawful immigration, federal immigration policies, fentanyl, and the southern border of the United States and Texas. HR 6035 encourages the Governor to provide the Governor of Texas support, including the resources of the Kansas National Guard, Kansas law enforcement agents, equipment, and supplies, and states the House of Representatives seeks further conversations with the Governor of Texas and Texas Legislature to formalize an agreement of support. SR 1737 states the Kansas Legislature joins in solidarity with 25 states to support the Governor of Texas defending the state's southern border and its citizens and that the President of the United States violated his oath of office by failing to faithfully execute federal immigration laws.

Approving an Amendment to the Gaming Compact Between the Iowa Tribe of Kansas and Nebraska and the State of Kansas; HR 6045 and SR 1750

HR 6045 and **SR 1750** approve an amendment to the gaming compact between the Iowa Tribe of Kansas and Nebraska and the State of Kansas. The amendment creates and amends provisions concerning sports wagering operations on the Tribe's reservation lands.

Commercial Financing Disclosure Act; SB 345

SB 345 creates the Commercial Financing Disclosure Act (Act), pertaining to certain commercial financing transactions between a provider and a business. The bill requires the disclosure of certain commercial financing product transaction information, provides for civil penalties for violations of the Act, and authorizes the Attorney General to enforce the Act.

Definitions

The bill defines multiple terms used in the Act, including:

- "Account," which includes:
  - A right to payment of a monetary obligation, whether or not earned by performance, for:
    - Property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of;
    - Services rendered or to be rendered;
    - A policy of insurance issued or to be issued;
    - A secondary obligation incurred or to be incurred;
    - Energy provided or to be provided;
    - The use or hire of a vessel under a charter or other contract;
    - Arising out of the use of a credit card or charge card or information contained on or for the use of such card; or
    - Winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate such lottery or game by a state or governmental unit of a state; and
  - Health care insurance receivables;

  "Account" does not include:
  - Rights to payment evidence by chattel paper or an instrument;
  - Commercial tort claims;
  - Deposit accounts;
  - Investment property;
  - Letter-of-credit rights or letters of credit; or
  - Rights to payment of moneys advanced or sold other than rights arising out of the use of a credit card or charge card or information contained on or for use with such card;

- "Accounts receivable purchase transaction" means any transaction in which a business forwards or otherwise sells to a provider all or a portion of accounts of such business, cash receipts, or payment intangibles at a discount to the expected value of such accounts or payment intangibles. The provider's characterization of an accounts receivable purchase transaction as a purchase is conclusive that such accounts receivable transaction is not a loan or a transaction for the use, forbearance, or detention of money;

- "Broker" means any person who, for compensation, or the expectation of compensation:

    - Arranges for a commercial financing product transaction between a third party that, if executed, such transaction is binding upon such third party; and

    - Communicates such transaction to a business in this state;

  "Broker" does not include a provider or any individual or entity whose compensation is not based or dependent upon the terms of the specific commercial financing product obtained or offered;

- "Business" means an individual, group of individuals, sole proprietorship, corporation, limited liability company, trust, estate, cooperative, association, limited partnership, or general partnership engaged in a business activity;

- "Commercial financing facility" means a provider's plan for purchasing multiple accounts receivable from the recipient over a period of time pursuant to an agreement that sets forth the terms and conditions governing the use of the facility;

- "Commercial financing transaction" means any commercial loan, accounts receivable purchase transaction, and commercial open-end credit plan when the transaction is a business purpose transaction; and

- "Provider" means a person who consummates more than five commercial financing transactions to a business located in the state in a calendar year. "Provider" does not include a person that enters into a written agreement with a depository institution to arrange for the extension of a commercial financing transaction by such depository institution to a business through an online lending platform administered by such person.

The bill also defines "business purpose transaction," "commercial loan," "commercial open-end credit plan," "depository institution," "general intangible," "payment intangible," and "person."

Required Commercial Financing Transaction Disclosures

Before, or at the time of, consummating a commercial financing transaction, the bill requires a provider to disclose to the business the terms of such transaction. Only one

disclosure is required for each commercial financing transaction. Disclosure is not required when a modification, forbearance, or change to a consummated commercial financing transaction occurs.

The bill requires a provider to disclose the following with each commercial financing transaction, with each disclosure labeled using the terms in quotation marks below:

- The "total amount of funds provided";
- The "total amount of funds disbursed," if less than the total amount of funds provided;
- The "total of payments" to such provider;
- The "total dollar cost of financing," determined by subtracting the total amount of funds provided from the total of payments and includes any fees or charges deducted by the provider from the total amount of funds provided;
- The manner, frequency, and amount of each of the "payments," and, if such payments vary, the provider is required to instead disclose the manner, frequency, and estimated amount of the initial payment and label such disclosure as "estimated payments." The bill requires a description of the methodology for calculating any variable payment and the circumstances for when payments may vary to be included in the commercial financing transaction agreement; and
- A statement of whether any costs or discounts are associated with prepayment of such commercial financing transaction, including a reference to the paragraph in the agreement that creates a contractual right to "prepayment."

Commercial Financing Facility Disclosures

The bill allows a provider that consummates a commercial financing facility to provide disclosures required by the Act that are based on an example of a transaction that may occur under the agreement. The bill requires the example to be based on an account receivable total face amount owed of $10,000. Only one disclosure is required for each commercial financing facility. Disclosure is not required when a modification, forbearance, or change to the facility occurs. A new disclosure is not required each time accounts receivables are purchased under the facility.

Exemptions from the Act

The bill provides that the Act does not apply to:

- A provider that is a depository institution or its parent company or a subsidiary or service corporation that is:
  - Owned and controlled by a depositary institution; and
  - Regulated by a federal banking agency;

- A provider that is a lender regulated under the federal Farm Credit Act;

- A commercial financing transaction that is:

  - Secured by real property;
  - A lease; or
  - A purchase money obligation that is incurred as all or part of the price of the collateral or for value given to enable the business to acquire rights in or the use of such collateral if such value is so used;

- A commercial financing transaction in which the recipient is a motor vehicle dealer or a vehicle rental company, or an affiliate of a motor vehicle dealer or a vehicle rental company, or an affiliate of such company pursuant to a commercial loan or commercial open-end credit plan of at least $50,000 or a commercial financing transaction offered by a person in connection with the sale or lease of products or services that such person manufactures, licenses, or distributes or whose parent company or any of such parent company's directly or indirectly owned and controlled subsidiaries manufactures, licenses, or distributes;

- A provider that is licensed as a money transmitter in accordance with the Kansas Money Transmitter Act or the law of any other state, district, territory, or commonwealth of the United States;

- A provider that consummates not more than five commercial financing transaction transactions in Kansas in a 12-month period; or

- A commercial financing transaction of more than $500,000.

Broker Prohibitions

The bill prohibits a broker from:

- Assessing, collecting, or soliciting an advance fee from a business to provide broker services. This does not preclude a broker from soliciting a potential business to pay for, or preclude a potential business from paying for, actual services necessary to apply for a commercial financing transaction. Actual services may include, but not be limited to, a credit check or an appraisal of security, where such payment is made by check or money order payable to a party independent of the broker;

- Making or using any false or misleading representations or omitting any material fact in the offer or sale of broker services or engaging, directly or indirectly, in any act that operates or would operate as fraud or deception upon any person in connection with the offer or sale of broker services, regardless of the absence of reliance by the buyer; or

- Making or using any false or deceptive representation in its business dealings.

Civil Penalties for Violations of Act

The bill requires violations of the Act to be punishable by a civil penalty of $500 per violation, but not to exceed $20,000 for all aggregated violations. Any person who receives written notice of a prior violation from the Attorney General and subsequently violates the Act is punishable by a civil penalty of $1,000 per violation, but not to exceed $50,000 for all aggregated violations.

The bill provides that the enforceability or validity of an underlying agreement is not affected by violations of the Act. The bill also provides that the Act does not create a separate right of action against any person based upon compliance or noncompliance with the provisions of the Act.

The bill vests the authority to enforce compliance with the Act exclusively with the Attorney General.

Kansas Uniform Securities Act—Violations of Act, Control Person Liability; SB 405

SB 405 amends the Kansas Uniform Securities Act (Act) to address violations of the Act by a control person and subject the control person, in certain circumstances, to administrative and civil enforcement action.

Under continuing law, registrants (*e.g.,* broker-dealers, broker-dealer agents, investment advisers, investment adviser representatives) violating the Act are subject to disciplinary actions, which may include administrative and civil penalties. This law also provides for disciplinary action for a person in control when the person is also a registrant.

The bill expands control person liability to provide that a person that directly or indirectly controls a person who has engaged, is engaging, or is about to engage in an action constituting a violation of the Act, a rule and regulation promulgated under the Act, or an order issued under the Act may be subjected to the same discipline as the violating person, unless the controlling person did not know and could not have reasonably known of the violating person's actions or conduct. [*Note:* "Person" is defined in KSA 17-12a102 to mean an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity. "Control" is defined in KAR 81-1-1 to mean the possession of the power to direct or influence the direction of the management or policies of a person, directly or indirectly, through the ownership of voting securities, by contract or by other means.]

KMBA and UCCC Modernization—Amendments, Relocation of Mortgage Business Provisions; Senate Sub. for HB 2247

Senate Sub. for HB 2247 removes and relocates mortgage-related provisions from the Kansas Uniform Consumer Credit Code (UCCC or Code) to the Kansas Mortgage Business Act (KMBA), adds law supplemental to the KMBA and to the UCCC, amends contract rate law, and makes several amendments to the UCCC.

The bill will take effect and be in force from and after January 1, 2025, and its publication in the statute book.

[*Note:* Kansas law regulating the conduct of mortgage business was enacted by 1996 SB 665 and codified in the Kansas Banking Code, chapter 9, article 22 of the *Kansas Statutes Annotated*. The Act was designated as the Kansas Mortgage Business Act (KMBA) by 1999 SB 241. Enacted in 1973, the Kansas Uniform Consumer Credit Code (UCCC) applies to all aspects of consumer credit, addressing transactions for personal, family, and household purposes. In general, transactions greater than $25,000 are outside the scope of the UCCC, but any transaction may become a consumer credit transaction if the parties to the agreement choose to do so.]

Kansas Mortgage Business Act (Chapter 9, Article 22)—Mortgage Provisions from the Uniform Consumer Credit Code (New Sections 1–14)

The bill incorporates mortgage business provisions from the UCCC, which will apply only to covered transactions as defined in the KMBA (KSA 9-2201) and further specifies continuing provisions of the KMBA (*e.g.,* mortgage business licensure and compliance, authority of the State Bank Commissioner [Commissioner]) will apply to licensed mortgage companies.

Provisions Applicable to Covered Transactions under the KMBA (New Sections 3–14)

The bill defines a "covered transaction" (as referenced in new sections 3–14 and amendment to KSA 9-2201, section 17), to mean a mortgage loan that:

- Is a subordinate mortgage;
- Has a loan-to-value ratio at the time when made that exceeds 100 percent, except for any loan guaranteed by a federal government agency of the United States; or
- In the case of certain covered transactions (outlined in section 11), when the annual percentage rate (APR) of the loan exceeds the Code mortgage rate.

Among the provisions transferred from the UCCC, the bill provides that:

- A mortgage company could not make a covered transaction with an interest in land as security with an amount financed of $5,000 or less in which the APR exceeds the mortgage rate; any security interest taken in violation of this section shall be void (New Section 4).
- A consumer could not waive or agree to forgo rights or benefits relating to covered transactions (as specified in sections 3–14) except for the following claims, which could be settled by agreement if disputed in good faith:
    - By a consumer against a mortgage company for any violation of the bill's covered transactions provisions (sections 3–14); or
    - Against a consumer for default or for breach of a duty imposed by the covered transactions provisions (sections 3–14) [New Section 5].

- If a mortgage company, except as otherwise provided in the new provisions (sections 3–14), has violated any provisions pertaining to covered transactions, the consumer shall have a cause of action to recover from the mortgage company or person liable to the consumer actual damages and, except for a class action, a penalty in an amount determined by the court of $750 to $7,500. The bill provides further criteria regarding consideration of actions, including the timing to bring an action, a consumer's obligation to pay the amount financed or a charge, penalty liability when a mortgage company corrects an error, and a mortgage company's compliance with a written administrative document (New Section 6).

- The consumer could prepay in full the unpaid balance of a covered transaction at any time without penalty (New Section 7).

- The periodic finance charge for a covered transaction could not exceed 18 percent per annum, subject to the limitations provided. The periodic finance charge provisions do not apply to:

    - Loans secured by a first mortgage that constitute a covered transaction by virtue of the loan-to-value ratio that exceeds 100 percent at the time the loan is made; or

    - Covered transactions where the finance charge is governed by a contract rate provision added to KSA 16-207 by this bill, pertaining to a note secured by a real estate mortgage or a contract for deed.

        – The bill also limits prepaid finance charges on covered transactions to an amount not to exceed 8 percent of the amount financed, provided that the aggregate amount of prepaid finance charges payable to the mortgage company does not exceed 5 percent.

        – The bill further specifies when the finance charge limitations would not apply to a covered transaction for which the finance charge is governed under KSA 16-207 (New Section 8).

- In addition to the finance charge permitted in provisions pertaining to covered transactions (sections 3–14), a mortgage company is permitted to contract for and receive additional charges (*e.g.,* closing costs that are not included in the prepaid finance charge, permitted late fees, and charges for other benefits, including insurance) (New Section 9).

- The parties to a covered transaction are permitted to contract for a late fee on any installment not paid in full within 10 calendar days after its scheduled or deferred due date in an amount not to exceed 5 percent of the unpaid amount of the installment or $25, whichever is less. The bill permits an alternative to this late fee, by allowing the parties to contract for a late fee not to exceed $10 on any unpaid installment after its scheduled or deferred due date, except that if the scheduled payment is $25 or less, the maximum late fee would be $5 (New Section 10).

- A covered transaction could not provide for the negative amortization of principal or a balloon payment when the loan-to-value ratio at the time such covered transaction was made exceeds 100 percent or when the loan's APR exceeds the Code mortgage rate unless this covered transaction is open-end, incurred to acquire or construct the consumer's principal residence, or a reverse mortgage (New Section 11).

- A mortgage company, before making a covered transaction, will be required to obtain the appraised value of the real estate to be encumbered; the bill provides notice requirements for mortgage companies when the loan-to-value ratio exceeds 100 percent (New Section 12).

- An agreement of the parties to a covered transaction with respect to default on the part of the consumer will be enforceable only under certain circumstances, including when the consumer fails to make a payment as required by the agreement (New Section 13).

- After a consumer has been in default for 10 days for failure to make a required payment in a covered transaction (payable in installments), a mortgage company may give the consumer written notice. The bill requires such notice to include a brief description of the covered transaction, the consumer's right to cure the default, and the consumer's possible liability for the reasonable costs of collection (New Section 14).

Computation of Time; Submission of Writing or Signature in Electronic Format (New Sections 1–2)

The bill requires calendar days to be used in computing any period of time and include Saturdays, Sundays, and legal holidays in that computation. The bill specifies that any writing or signature required by this act may be provided or executed in an electronic form. The bill provides that, if the consumer agrees to use of electronic methods instead of U.S. mail, any requirement to mail a document may be satisfied by sending the document by electronic methods.

Kansas Mortgage Business Act—Amendments (Sections 17–25)

The bill amends nine statutes within the KMBA as follows:

- **Mortgage business; definitions.** Adds definitions relating to mortgage business from the UCCC (Section 17);

- **Exempt from licensure.** Adds a licensure exemption for business entities with no employees when a related, licensed mortgage company acts as a proxy for the entity and includes such mortgage business in the proxy's report to the Commissioner (Section 18);

- **License required to conduct mortgage business; registration for a loan originator.** Adds "entities that are exempt from licensure" to those parties authorized to conduct mortgage business in Kansas (Section 19);

- **License; display; signed acknowledgment; advertising or solicitation disclosure.** Removes language pertaining to signed acknowledgments and requires a licensee to provide each consumer a notice, containing information the Commissioner may prescribe by rules and regulations, by the time the earliest of three events occurs: entering a contract, receiving compensation from a consumer, or accepting a transfer of mortgage servicing (Section 20);

- **State Bank Commissioner; powers and duties.** Updates provisions regarding administrative guidance documents to reference the Rules and Regulations Filing Act and states that the grant of powers to the Commissioner in this article does not affect remedies available to consumers under the KMBA or under other principles of law or equity (Section 21);

- **Prohibited acts for persons licensed or registered under Act.** Adds a prohibition on persons required to be licensed or registered, stating that no such person should fail to disburse the proceeds of a mortgage loan upon the satisfaction of all conditions to the disbursement and the expiration of all applicable rescission, cooling-off, or other waiting period required by law, unless the parties otherwise agree in writing (Section 22);

- **Retention of records; time period; inspection, security, preservation of records.** Makes only technical changes (Section 23);

- **Annual written report; penalty; information confidential.** Adds a provision to allow the Commissioner to apply any funds received from late penalties to a consumer education fund, to be expended as directed by the Commissioner. The bill also adds a provision regarding expiration of public records confidentiality for certain annual reports that will expire on July 1, 2030, unless the Legislature reviews and reenacts these provisions (Section 24); and

- **Citation of act; severability.** Amends the citation of the KMBA to include sections 1–14 of this bill (Section 25).

Applicability to KMBA and UCCC [Contracts and Promises; Interest and Charges; Ch. 16, Art. 2] (Sections 26 and 27)

The bill also updates language in statutes pertaining to contracts and promises, and not in the KMBA or UCCC, to clarify and incorporate provisions pertaining to mortgage business (KMBA) and consumer credit (UCCC).

Contract Rate; Interest (Section 26)

The bill adds these loans and transactions to continuing provisions in which the prescribed interest receivable limitation of 15 percent does not apply (KSA 16-207):

- A covered transaction subject to usury provisions of the KMBA;
- A consumer credit transaction subject to usury provisions of the UCCC;
- Loans made by a qualified plan to an individual participant in such plan or to a member of the family of such individual participant;
- A note secured by a real estate mortgage or a contract for deed for real estate when the note or contract for deed permits adjustment of the interest rate, the term of the loan, or the amortization schedule; or
- A business or agricultural transaction.

Rules and Regulations; Loans Secured by Real Estate (Section 27)

The bill removes the rulemaking authority assigned to the Consumer Credit Commissioner and the Savings and Loan Commissioner (the State Bank Commissioner and Credit Union Administrator will retain authorization to jointly adopt rules and regulations governing certain loans) [KSA 16-207d]. [*Note:* Powers, duties, and functions of both offices were transferred to the Office of the State Bank Commissioner, from the office of the Consumer Credit Commissioner in 1999 and from the office of the Savings and Loan Commissioner in 1993.]

Uniform Consumer Credit Code [Chapter 16a, Articles 1–9]—Supervised Loan Licensing Exemption; Submission of Writing or Signature in Electronic Format (New Sections 15–16)

The bill exempts the following from the supervised loan licensing requirements of the UCCC:

- A supervised financial organization;
- The Federal Deposit Insurance Corporation acting in its corporate capacity or as receiver; or
- An attorney who is forwarded contracts for collection.

The bill also specifies that any writing or signature required by this act may be provided or executed in an electronic form. If the consumer agrees to use of electronic methods instead of U.S. mail, any requirement to mail a document may be satisfied by sending the document by electronic methods.

Uniform Consumer Credit Code—Amendments (Sections 28–118)

The UCCC comprises the following articles in Chapter 16a (articles 7–8 are reserved):

- Article 1: General Provisions and Definitions;

- Article 2: Finance Charges and Related Provisions;
- Article 3: Regulation of Agreements and Practices;
- Article 4: Insurance;
- Article 5: Remedies and Penalties;
- Article 6: Administration; and
- Article 9: Effective Date and Repealer.

[*Note:* Several amendments to the UCCC are technical in nature. This bill summary reviews only substantive changes to the UCCC.]

Article 1: General Provisions and Definitions (Sections 28–37)

The bill amends Article 1 provisions as follows.

Short title, construction, general provisions (Part 1). The bill updates the UCCC citation and states the UCCC takes precedence in consumer credit transactions, the Uniform Commercial Code, and other specified principles of law and equity.

Scope and jurisdiction (Part 2). The bill updates language pertaining to a written agreement to include electronic or physical signature. The bill also adds a condition to the list of activities constituting a consumer credit transaction made in Kansas to include:

- Excepting certain limitations for creditors' remedies, a consumer credit transaction made in a state outside of Kansas to a person who was not a resident of Kansas when the sale, lease, loan, or modification was made is valid and enforceable in Kansas according to its terms to the extent that it is valid and enforceable under the laws of the state applicable to the transaction.
    - The bill further states that the UCCC's oversight of the consumer credit transaction will not apply if the consumer is not a resident of Kansas at the time of the transaction and the parties have agreed that the law of the consumer's residence applies.

Definitions (Part 3). The bill adds or modifies several definitions. In addition, definitions relating to mortgage business are removed from this section. The new definition of "threshold amount" means:

- An amount equal to at least $69,500 as of July 1, 2024, and adjusted effective January 1 of each subsequent year by an annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers [CPI-W] that was effective on June 1 of the preceding year. [*Note:* This threshold amount mirrors the current dollar threshold and annual percentage increase using the CPI-W provided for in the Truth in Lending Act (Regulation Z).]

Article 2: Finance Charges and Related Provisions (Sections 38–60)

The bill amends Article 2 provisions as follows:

General provisions. The bill removes the prescribed finance charge computation for consumer loans secured by a first or second lien real estate mortgage, which may be computed using a specified amortization method (the contract rate is divided by 360 and the resulting rate is then multiplied by the outstanding principal amount and 30 assumed days between scheduled due dates).

Consumer credit sales, maximum finance charges (closed-end sales). The bill removes one of the permitted types of sale in which a seller could charge a prepaid finance charge: a consumer credit sale secured by a security interest in a manufactured home (the current prepaid finance charge is limited to 5 percent of the amount financed for the sole purposes of reducing the interest rate of that sale).

Consumer credit sales, maximum finance charges (open-end sales). The bill removes a provision stating this section does not apply to a sale of interest in land.

Consumer loans; supervised lenders. The bill makes several amendments to Part 3 of Article 2, including:

- Authority to make supervised loans. Specifies that, unless a person is exempted by provisions created in the bill (new section 16), such person cannot engage in making supervised loans or taking assignments directly or indirectly. If the person is engaging in this business (taking assignments), the bill requires this person to promptly apply for a license and could, for three months, collect and enforce without such license, provided the person's application has not been denied.

- License to make supervised loans. Provides that a license would become effective as of the date specified in writing by the Code Administrator. The bill specifies conditions for consideration of licensure abandonment, renewal, and reinstatement. The renewal fee will be established by rules and regulations. The bill also requires licensees to provide written notice, within ten business days, of certain events including the closure or relocation of any place of business. Licensees will also be required to maintain information pertaining to the name or unique identifier of the licensee on record and a record of solicitations and advertising, for 36 months.

- Denial, revocation, or suspension of license. Updates organization of provisions pertaining to circumstances under which the Administrator may deny an application or renewal of license or revoke or suspend a supervised loan license. The bill provides for an administrative hearing, under the Kansas Administrative Procedure Act, upon the written request of an applicant or licensee.

- Records. Amends language to provide that all books, records, and any other documents required to be retained may be maintained in a photographic, reproduced, or electronic format. These documents must be made available for examination and inspection and must be delivered to the Administrator within three business days of the date such documents are requested.

- Regular schedule of payments; maximum loan term. Updates and replaces language to provide that supervised loans meeting certain criteria (that are not made pursuant to an open-end credit or lender credit cards issued by a supervised lender and in which the amount financed is $1,000 or less and the principal is payable in more than a single payment) must be scheduled to be payable in substantially equal installments at equal periodic intervals except to the extent that the payment schedule is adjusted to the seasonal or irregular income of the debtor and over a period not to exceed 25 months.

- Prohibited acts by persons licensed or registered. Removes certain prohibitions on any person required to be a consumer credit filer, including compensation for making certain residential mortgage loans.

Consumer loans; maximum finance charges. The bill makes several amendments to Part 4 of Article 2, including:

- Finance charge for consumer loan. Changing the allowed finance charge on a closed-end loan (non-real estate) from a blended rate to a maximum (flat) rate of 36 percent. Prepaid finance charges will be limited to an amount not to exceed the lesser of 2 percent or $300.

- Prohibiting surcharge on credit or debit cards. Amending provisions governing the surcharge on credit and debit cards to instead specify that no person or retailer doing business in a sales, service, or lease transaction with a customer may impose a surcharge on a customer who elects to use a credit card as payment unless such person or retailer discloses the amount of such surcharge through a clear and conspicuous notice to the customer at the point of entry or the point of sale and in advance of such transaction.

- Payday loans; finance charges; rights and duties. Adding a provision regarding repayment to state that a consumer who is unable to repay a payday loan when it is due may elect once every 12 months to repay the payday loan by means of an extended payment plan. This 12-month period will be measured from the date the consumer pays in full an extended payment plan with the lender until the date that the consumer enters another extended payment plan. The bill outlines the process for a consumer to request such plan, its terms, and failure to pay an extended payment plan installment. The bill further specifies that no additional payday loan shall be made to the consumer during an extended payment plan.

Consumer credit transactions, other charges and modifications. The bill makes several amendments to Part 5 of Article 2, including:

- Additional charges. Defining “notice” as the term pertains to notice given to a consumer providing an insufficient method of payment. Provides for a service charge for an insufficient payment, not to exceed $30. Allows a creditor to provide insurance and contract for and receive an additional charge for insurance written in connection with a transaction.

- Delinquency charges. Replacing references to "delinquency charges" with "late fees" and further states that no late fee may be assessed when such a fee or charge is attributable solely to failure of the consumer to pay a late fee on an earlier installment and the payment is otherwise a periodic payment received on the due date, or within ten calendar days after its scheduled or deferred installment due date.

- Finance charge on refinancing. Removing language that had permitted a creditor to contract for and receive a finance charge based on the amount financed resulting from the refinancing at a rate not exceeding the provisions on finance charges for certain loans (KSA 16a-2-201 or 16a-2-401), if a consumer loan is refinanced.

- Finance charge on consolidation. Removing language that would have permitted a consumer and a creditor to consolidate two unpaid balances into a single schedule of payments.

- Advances to perform covenants of consumer. Specifying that if a consumer credit transaction agreement requires a consumer to insure or preserve the collateral and the consumer fails to do so, after providing the consumer prior notification and a reasonable opportunity to perform, the creditor may pay for the performance of insuring or preserving the collateral on the consumer's behalf and may add the payment to the unpaid debt balance.

- Recovery of collection costs and attorney fees. Providing that reasonable collection costs and attorney fees, with respect to a consumer credit transaction, shall be considered separate from reasonable expenses incurred on realizing a security interest (pursuant to KSA 16a-3-402).

Article 3: Regulation of Agreements and Practices (Sections 61–81)

Disclosures. The bill makes several amendments to Part 2 of Article 3, including:

- Consumer leases. Updating an internal reference (to KSA 16a-6-104).

- Notice to consumer. Adding a consumer notice stating a written agreement that requires or provides for the signature of a consumer and that evidences a consumer lease shall contain a clear, conspicuous, and printed notice to the consumer that such consumer should not sign the agreement before reading it and that such consumer is entitled to a copy of the agreement.

    - The following notice, if clearly and conspicuously printed, would comply with the above provision:

      NOTICE TO CONSUMER: 1. Do not sign this agreement before you read it. 2. You are entitled to a copy of this agreement.

- Notice of assignment. Under notification of assignment of rights to payments, the bill adds a provision that if the payment is received by the assignor of a consumer credit contract for the benefit of the assignee, the date of payment shall be deemed to be the day payment is received by the assignor.

- Compliance with rules and regulations; truth in lending. Making clarifying amendments and updating an internal reference (to KSA 16a-6-104).

Limitations on agreements and practices. The bill makes several amendments to Part 3 of Article 3, including:

- Certain negotiable instruments prohibited. Providing, with respect to a consumer credit sale or consumer credit lease, the creditor shall only accept currently dated negotiable instruments as evidence of the obligation of the buyer or lessee. A creditor is prohibited from making the consumer credit sale contract or lease contract a negotiable instrument.

- Balloon payments. Clarifying the right to refinance, excepting those pursuant to open-end credit, for certain consumer credit transactions with a balloon payment, and removing reference to a note secured by a real-estate mortgage.

- Referral sales. Replacing provisions pertaining to a rebate, discount, or payment of value to a buyer with language providing that, in a consumer credit sale, no seller shall offer or give a rebate, discount, or otherwise pay value to the buyer in consideration of the buyer giving the seller the names of third parties, or otherwise assist the seller in making a sale to a third party when the earning of the rebate, discount, or other value is contingent upon an event subsequent to the time of sale. Similar language is provided for a consumer credit lease.

Article 4: Insurance (Sections 82–96)

The bill makes technical and clarifying amendments to provisions of Article 4 in parts 1–3 (insurance in general; consumer credit insurance; and property and liability insurance).

Article 5: Remedies and Penalties (Sections 97–103)

The bill amends Article 5 provisions as follows.

Limitations on creditors' remedies. The bill makes several amendments to Part 1 of Article 5, including:

- Extortionate extensions of credit. Updating provisions to remove reference to "at the time an extension of credit is made" as it pertains to any failure to make repayment that could result in the use of violence or other criminal means to cause harm to a person, reputation, or person's property.

- Unconscionability; inducement by. Adding language to provide that the unconscionability of an act or practice is a question for the trier of fact.

- Cure of default. Providing that after a consumer has been in default for ten days for failure to make a required payment in a consumer credit transaction payable in installments, a creditor may give the consumer notice, as described in this section. Notice must be in writing and conspicuously state information including the creditor's name, address, and telephone number; the amount of payment and date by which payment must be made to cure the default; and the consumer's possible liability for the reasonable cost of collection.

    - The bill also provides that unless the consumer voluntarily surrenders the collateral to the creditor, the creditor may take possession of the collateral without judicial process only if possession can be taken without entry into a dwelling and without the use of force or other breach of the peace.

Criminal penalties. The bill amends Part 3 of Article 5 as follows.

- Intentional violations; penalties. Removes language in provisions pertaining to a conviction for an intentional violation that had prohibited imprisonment for the violation if the person proves such person had no knowledge of the rule and regulation or order. Also removes language pertaining to the criminal liability of a person that prohibited prosecution of a person with respect to the same violation may be maintained pursuant to this section and the federal Truth in Lending Act.

Article 6: Administration (Sections 104—118)

The bill amends Article 6 provisions as follows.

Powers and functions of Administrator. The bill makes several amendments to Part 1 of Article 6, including:

- Powers of administrator; reliance on rules and regulations; administrative interpretations; Nationwide Mortgage Licensing System and Registry. Clarifying provisions pertaining to the powers and duties of the Administrator, including providing guidance to persons and groups on their rights and duties and establishing or supporting consumer education. The bill permits the Administrator to fund consumer education programs from operating funds in an amount up to one percent of operating funds.

- Examination and investigatory powers; costs. Providing that all examination material is confidential by law and privileged and not subject to the Kansas Open Records Act or subpoena and discovery, or admissible in evidence in any private civil action. The bill provides these disclosure provisions will expire on July 1, 2029, unless the Legislature reviews and reenacts such provisions prior to that date.

Further, the Administrator will be permitted to enter into an informal agreement at any time with a person to resolve a matter arising under this act, adopted rules and regulations, or an order issued pursuant to the act.

- Enforcement of act; cease and desist orders; penalties; appeals. Adding the refusal or failure to provide information requested by the Administrator to the listed acts or practices constituting a violation of this act.

Powers and functions of Administrator. The bill makes several amendments to Part 2 of Article 6, including:

- Applicability. Further clarifying persons or agreements that are not to be applicable to the provisions applying to a creditor engaged in this state entering into a consumer credit transaction and any person who accepts assignment of and undertakes collection of payments to exclude:
  - Supervised financial organizations; or
  - Supervised loan licensees or those registered to be licensed unless the entity:
    - Enters into consumer credit sales or consumer leases;
    - Assigns or accepts assignments of consumer credit sales or consumer leases; or
    - Attorneys or collection agencies that receive payment for collection purposes.

- Fees. Changing the deadline for consumer credit filers from April 30 to August 31. Under continuing law, consumer credit filers who are sellers, lessors, or lenders are required to pay an additional fee at this time.

Administrative procedure and judicial review. The bill makes amendments to Part 4 of Article 6, including:

- Applicability and scope. Providing that, subject to specific provisions found in KSA 16a-1-101 *et seq*. (the UCCC), the exercise of powers by the Administrator shall be subject to the adoption of rules and regulations pursuant to the Rules and Regulations Filing Act (codified at KSA 77-415 *et seq*.), the Kansas Administrative Procedure Act (KSA 77-501 *et seq*.), and the Kansas Judicial Review Act (KSA 77-601 *et seq*.).

Insurance Code—Amendments (Section 119)

The bill amends provisions governing mutual insurance companies (other than life) to update an internal reference (KSA 16-207).

Repealed Statutes (Section 120)

In addition to the statutes amended by the bill, the bill also repeals an additional 28 statutes within the UCCC.

Banking Code Amendments; Enacting the Kansas Money Transmission Act and the Kansas Earned Wage Access Services Act; HB 2560

HB 2560 repeals and replaces the Kansas Money Transmitter Act (KSA 9-508 *et seq.*) with the Kansas Money Transmission Act, enacts the Kansas Earned Wage Access Services Act, and makes several amendments to the State Banking Code.

Provisions pertaining to the enactment of the Kansas Money Transmission Act will become effective and be in force from and after January 1, 2025, and upon its publication in the statute book.

Kansas Money Transmission Act

The bill requires the State Bank Commissioner (Commissioner) to provide oversight of the electronic transmission of money. The bill also establishes a licensing and renewal process for persons licensed under the Act and penalties for violations of the Act. [*Note:* The Act is organized as follows (sections): Definitions (§ 1); Exemptions (§ 2); Implementation, Confidentiality, Supervision, and Federal Law Applicability (§ 3-7); Licensing (§ 8-11; 13-16); Acquisition of Control (§ 12; 17-18); Reporting and Records (§ 19-24); Authorized Delegates (§ 25-26); Disclosures (§ 27-31); Prudential Standards (§ 32-35); Enforcement (§ 36-41); Severability (§ 42)].

Definitions

The bill defines terms as used in the Act, including:

- "Money," to mean a medium of exchange that is authorized or adopted by the United States or a foreign government. "Money" includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments;

- "Money transmission," to mean any of the following:
  - Selling or issuing payment instruments to a person located in Kansas;
  - Selling or issuing stored value to a person located in Kansas;
  - Receiving money for transmission from a person located in Kansas; or
  - Payroll processing services.

- "Person," to mean any individual, general partnership, limited partnership, limited liability company, corporation, trust, association, joint stock corporation, or other corporate entity identified or recognized by the Commissioner; and

- "Tangible net worth," to mean the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with U.S. generally accepted accounting principles.

Exemptions

The bill provides a list of entities the Act does not apply to:

- An operator of a payment system to the extent that such operator provides processing, clearing, or settlement services between persons exempted under this subsection or licensees in connection with wire transfers, credit card transactions, debit card transactions, stored value transactions, automated clearing house transfers, or similar funds transfers;

- A person appointed as an agent of a payee to collect and process a payment from a payor to the payee for goods or services other than money transmission provided to the payor by the payee under certain circumstances.

- A person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender and the sender's designated recipient, if the entity meets certain conditions.

- The U.S. government and any agency, bureau, department, office, or instrumentality, corporate or otherwise, thereof, including any official, employee, or agent of any such entity;

- Money transmission by the U.S. Postal Service (USPS) or by its agents;

- Any state office or officer, department, board, commission, bureau, division, authority, agency, or institution of this state, and any county, city, or other municipality;

- A federally insured depository financial institution, bank holding company, office of an international banking corporation, foreign bank that establishes a federal branch; a corporation organized pursuant to the federal Bank Service Company Act, or a corporation organized to do foreign banking under federal law;

- Electronic funds transfer of governmental benefits for or on behalf of a federal, state, county, or governmental agency or instrumentality;

- A board of trade designated as a contract market under federal law or a person that in the ordinary course of business provides clearance and settlement services for a board of trade to the extent of the board of trade's operation;

- A futures commission merchant registered under federal commodities law operating as such merchant;

- A person registered as a securities broker-dealer under federal or state securities law operating as such broker-dealer;

- An individual employed by a licensee, authorized delegate, or any person exempted from the Act's licensing requirements when acting within the scope of employment and under the supervision of the licensee, authorized delegate, or exempted person as an employee and not as an independent contractor;

- A person expressly appointed as a third-party service provider to or agent of a state office or officer, department, board, commission, bureau, division, authority, agency, or institution of this state, including any political subdivision thereof, and any county, city, or other municipality, solely to the extent that:

    - Such service provider or agent is engaging in money transmission on behalf of and pursuant to a written agreement with the exempt entity that sets forth the specific functions that the service provider or agent is to perform; and

    - The exempt entity assumes all risk of loss and all legal responsibility for satisfying the outstanding money transmission obligations owed to purchasers and holders of the outstanding money transmission obligations upon receipt of the purchaser's or holder's money or monetary value by the service provider or agent;

- A person engaging in the practice of law, bookkeeping, accounting, real estate sales, or brokerage;

- A person appointed as an agent of a payor for purposes of providing payroll processing services for which such agent would otherwise need to be licensed if:

    - There is a written agreement between the payor and the agent directed to provide payroll processing services on the payor's behalf;

    - The payor holds the agent out to employees and other payees as providing payroll processing services on the payor's behalf; and

    - The payor's obligation to a payee, including any parties entitled to receive funds via the payroll processing services provided by the agent, is not extinguished if such agent fails to remit such funds to the payee; and

- A person exempt by any rules or regulations adopted or by an order issued if the Commissioner finds such exemption to be in the public interest and that the regulation of such person is not necessary for the purposes of this act.

The Commissioner may require that any person claiming to be exempt from licensing provide information and documentation demonstrating that such person qualifies for any claimed exemption.

Implementation—State Bank Commissioner

To carry out the purposes of the Act, the Commissioner could:

- Enter into agreements or relationships with other government officials or federal and state regulatory agencies and regulatory associations to improve efficiencies and reduce regulatory burden by standardizing methods or procedures and sharing resources, records, or related information;

- Use, hire, contract, or employ analytical systems, methods, or software to examine or investigate any person subject to this act;

- Accept the licensing, examination, or investigation reports made by other state or federal government agencies or officials; and

- Accept audit reports made by an independent certified public accountant or other qualified third-party auditor for an applicant or licensee and incorporate the audit report in any report of examination or investigation.

The Commissioner will have the broad administrative authority to:

- Administer, interpret, and enforce this act;

- Promulgate rules and regulations necessary to implement this act; and

- Set proportionate and equitable fees and costs associated with required actions to provide sufficient funds each fiscal year to administer the Act and to achieve the purposes of this act.

Confidentiality

Except as otherwise provided, the following documents are deemed confidential and not subject to disclosure under the Kansas Open Records Act (KORA):

- All information or reports obtained by the Commissioner from an applicant, licensee, or authorized delegate; and

- All information contained in or related to an examination, investigation, operating report, or condition report prepared by, or on behalf of, or for use of the Commissioner, or financial statements, balance sheets, or authorized delegate information.

The provisions of this act providing for confidentiality of public records will expire on July 1, 2030, unless the Legislature has reviewed and reenacted such provisions in accordance with KORA prior to that date.

The Commissioner may disclose information not otherwise subject to disclosure to representatives of state or federal agencies who promise in a record to maintain the confidentiality of the information, or where the Commissioner finds that the release is reasonably necessary for the protection and interest of the public in accordance with KORA.

Public Information

The bill outlines the information contained in the records of the Office of the State Bank Commissioner (OSBC) that is not confidential and may be made available publicly (*e.g.*, name, business address, other contact information).

This section shall not be construed to prohibit the Commissioner from disclosing to the public a list of all licensees or the licensees' aggregated financial or transactional data.

Examination

The bill authorizes the Commissioner to conduct an examination or investigation of a licensee or authorized delegate or otherwise take independent action authorized by this act, by any rules and regulations adopted, or by an order issued under this act as reasonably necessary or appropriate to administer and enforce the Act, regulations implementing this act, and other applicable federal law. Under this authority, the Commissioner could:

- Conduct an examination on-site or off-site as the Commissioner may reasonably require;

- Conduct an examination in conjunction with an examination conducted by representatives of other state agencies, agencies of another state, or the federal government;

- Accept and consider the examination report of another state agency, an agency of another state, or the federal government, or a report prepared by an independent accounting firm as an official report of the Commissioner; and

- Summon, examine under oath or subpoena, and require a key individual or employee of a licensee or authorized delegate to produce records regarding any matter related to the condition and business of the licensee or authorized delegate.

Provision of Records

A licensee or authorized delegate must provide the Commissioner with full and complete access to all records the Commissioner may reasonably require to conduct a complete examination. The records will be provided at the location and in the specified format. The bill authorizes the Commissioner to utilize multistate record production standards and examination procedures when such standards would reasonably achieve these requirements.

Unless otherwise directed by the Commissioner, the licensee must pay all reasonably incurred examination costs.

Multistate Supervision

To administer and enforce the provisions of the Act and minimize the regulatory burden, the Commissioner is authorized to participate in multistate supervisory processes established between states and coordinated through the Conference of State Bank Supervisors (CSBS), money transmitter regulators associations, and affiliates and successors for all licensees that hold licenses in Kansas or other states. The bill states the actions the Commissioner may take.

The Commissioner could not waive, and nothing in the Act would constitute a waiver of, the Commissioner's authority to conduct an examination or investigation or otherwise take independent action authorized by the Act, rules and regulations adopted, or an order issued under the Act to enforce compliance with applicable state or federal law. A joint examination, investigation, or acceptance of an examination or investigative report would not be construed to waive an examination assessment provided for in this act.

Relationship to Federal Law

The bill provides that if the jurisdiction of state money transmission is conditioned on federal law, any inconsistencies between a provision of the Act and federal law governing money transmission would be governed by the applicable federal law to the extent of the inconsistency. The Commissioner may provide interpretive guidance that identifies any inconsistency between the Act and the governing federal law and the appropriate means of compliance with federal law.

License Prohibitions

A person will not be able to engage in the business of money transmission or advertise, solicit, or hold itself out as providing money transmission unless the person is licensed under the Act. This would not apply to a person that is:

- An authorized delegate of a person licensed under the Act acting within the scope of authority conferred by a written contract with the licensee; or

- Exempt under provisions of the Act (New Section 2) and does not engage in money transmission outside the scope of such exemption.

A license issued under the Act is not transferable or assignable.

Licensing Practices

To establish consistent licensing practices between Kansas and other states, the bill authorizes the Commissioner to:

- Implement all licensing provisions in a manner consistent with other states that have adopted the Act or multistate licensing processes; and

- Participate in nationwide protocols for licensing cooperation and coordination among state regulators, if such protocols are consistent with the Act.

The Commissioner is authorized to establish relationships or contracts with the Nationwide Multistate Licensing System and Registry (NMLS or "registry") or other entities designated by the NMLS to collect and maintain records, coordinate multistate licensing and supervision processes, process fees, and facilitate communication between the Commissioner, licensees, or other persons subject to the Act.

Under the bill, the Commissioner is authorized to utilize the NMLS for all aspects of licensing in accordance with the Act, including, but not limited to:

- License applications;
- Applications for acquisition of control;
- Surety bonds;
- Reporting;
- Criminal history background checks;
- Credit checks;
- Fee processing; and
- Examinations.

The Commissioner is also authorized to establish requirements or waive or modify, in whole or in part, any or all of the continuing requirements as reasonably necessary to participate in the NMLS through the adoption of any rules and regulations adopted or an order issued or the issuance of an order.

License Applications

An applicant for a license will be required to submit a completed application in a form and manner prescribed by the Commissioner. The application must contain content as set forth by rules and regulations, instruction, or procedure of the Commissioner and may be changed or updated by the Commissioner to carry out the purposes of the Act and maintain consistency with NMLS licensing standards and practices. The application must state or contain the criteria specified in the bill (*e.g.*, legal name and trade name, list of applicant's criminal convictions, list of applicant's proposed authorized delegates, and Kansas locations where money transmission is proposed).

Additional information must also be provided if an applicant is a corporation, limited liability company, partnership, or other legal entity (*e.g.*, copy of the applicant's audited financial statements and name of applicant's registered agent in Kansas).

The Commissioner is required to set a nonrefundable new application fee each year and may waive one or more requirements of application or permit an applicant to submit other information in lieu of the required information.

Requirements for Applicants

As part of any original application, the bill requires any individual in control of a licensee, any applicant in control of a licensee, and each key individual to provide certain items to the Commissioner through the NMLS. These items will include the following:

- The OSBC may require an individual to be fingerprinted and submit to a state and national criminal history record check. The bill authorizes OSBC to submit the fingerprints to the Kansas Bureau of Investigation (KBI) and the Federal Bureau of Investigation for criminal history record checks, which the OSBC may use such information for purposes of verifying the identification of the individual and in the official determination of the qualifications and fitness of the individual to be issued or to maintain a license;
    - The KBI must release all records of adult convictions and nonconvictions in Kansas and adult convictions, adjudications, and nonconvictions of another state or country to the OSBC. Disclosure or use of any information received for any purpose other than provided in the bill would be a class A misdemeanor and would constitute grounds for removal from office or termination of employment; and

- A description of the individual's personal history and experience provided in a form and manner prescribed by the Commissioner to obtain the following:
    - An independent credit report from a consumer reporting agency (waived if the individual does not have a Social Security number);
    - Information related to any criminal convictions or pending charges; and
    - Information related to any regulatory or administrative action and any civil litigation involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty, or breach of contract.

If the individual has resided outside of the United States at any time during the ten-year period immediately preceding the individual's application, the individual will also be required to provide an investigative background report prepared by an independent search firm that complies with the search firm requirements and background report specifications in the bill.

At a minimum, the search firm will be required to demonstrate that it has sufficient knowledge and resources, employs accepted and reasonable methodologies to conduct the research, and is not affiliated with or have an interest with the individual it is researching.

The investigative background report must be provided in English and, at a minimum, contain information specified in the bill (*e.g.*, a comprehensive credit report, criminal records information, and employment history).

Under the bill, any information required may be used by the Commissioner in making an official determination of the qualifications and fitness of the person in control or that seeks to gain control of the licensee.

Acquisition of Control

A person would be presumed to exercise a controlling influence when the person holds the power to vote, directly or indirectly, at least 10 percent of the outstanding voting shares or voting interests of a licensee or person in control of a licensee. The bill authorizes a person presumed to exercise a controlling influence to rebut the presumption of control if the person is a passive investor.

For purposes of determining the percentage of a person controlled by any individual, the individual's interest will be aggregated with the interest of any other immediate family member, as described in the bill, and any other person who shares the individual's home.

Application Approval; Denial; Licensure of

When an application for an original license under the Act appears to include all the items and addresses all matters that are required, the application will be deemed complete, and the Commissioner must promptly notify the applicant of the date the application is deemed complete. The Commissioner will approve or deny the application within 120 days after the completion date.

If the application has not been approved or denied within 120 days after the completion date, the application would be considered approved and the license would take effect as of the first business day after expiration of the 120-day period. The Commissioner may extend the application period for good cause.

A determination of completion by the Commissioner will not be deemed to be an assessment of the substance of the application or of the sufficiency of the information provided.

When an application is filed and considered complete under the bill, the Commissioner will be required to investigate the applicant's financial condition and responsibility, financial and business experience, and character and general fitness. The Commissioner is authorized to conduct an on-site investigation of the applicant at the applicant's expense. The Commissioner will issue a license to an applicant under the bill if the Commissioner finds that the following conditions have been fulfilled:

- The applicant has complied with the provisions of the bill related to applications; and

- The financial condition and responsibility, financial and business experience, competence, and character and general fitness of the applicant and key individuals and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in money transmission.

If an applicant avails itself or is otherwise subject to a multistate licensing process:

- The Commissioner will be authorized to accept the investigation results of a lead investigative state to satisfy the requirements of investigation if such lead investigative state has sufficient staffing, expertise, and minimum standards; or

- If Kansas is the lead investigative state, the Commissioner will be authorized to investigate the applicant utilizing the time frames established by agreement through the multistate licensing process. No such time frames will be considered noncompliant with the application period described in the bill.

The Commissioner must issue a formal written notice of the denial of a license application within 14 days of the decision to deny the application. The Commissioner must state the specific reasons for the denial of the application. An applicant whose application is denied by the Commissioner could appeal within 14 days of receiving the notice and request a hearing in accordance with the Kansas Administrative Procedure Act (KAPA) (KSA 77-501 *et seq.*).

The initial license term begins on the day the application is approved. The license will expire on December 31 of the year in which the license term began, unless the initial license date is between November 1 and December 31, in which case the initial license term will run through December 31 of the following year.

Renewal of Licenses

A license issued under the Act will be renewed annually. An annual renewal fee set by the Commissioner will be paid not more than 60 days before the license expiration. The renewal term is for one year and begins on January 1 of each year after the initial license term and expires on December 31 of the same year.

A licensee must submit a complete renewal report with the renewal fee. This report must contain a description of each material change in information submitted by the licensee in the licensee's original license application that has not been previously reported.

Renewal applications received within 30 days of the expiration of the license and incomplete applications as of 30 days prior to the expiration of the license are subject to a late fee set by the Commissioner. The Commissioner is authorized to grant an extension of the renewal date for good cause.

The Commissioner is authorized to utilize the NMLS to process license renewals, if the utilization satisfies the requirements of the bill.

Renewal applications submitted between November 1, 2024, and December 31, 2024, and considered complete pursuant to the current Kansas Money Transmitter Act requirements (KSA 9-509) will be considered complete.

Revocation of Licenses

The bill provides that if a licensee does not continue to meet the qualifications or satisfy the requirements of an applicant for a new money transmission license, the Commissioner may suspend or revoke the licensee's license in accordance with the procedures established by the Act or other applicable state law for such suspension and revocation.

An applicant for a money transmission license is required to demonstrate that it meets or will meet the requirements of the Act.

Completeness of Applications

The Commissioner is granted the discretion to determine the completeness of any application submitted pursuant to the Act. In making such a determination, the Commissioner will consider the applicant's compliance with the requirements of the Act and any other facts and circumstances the Commissioner deems appropriate.

If an applicant fails to complete the application for a new license or for a change of control of a license within 60 days after the Commissioner provides written notice of an incomplete application, the application will be deemed abandoned and the application fee nonrefundable. An applicant whose application is abandoned could reapply to obtain a new license.

Transfer of License Control

When any person or group of persons acting in concert is seeking to acquire control of a licensee, the bill requires the licensee to obtain the written approval of the Commissioner prior to the change of control. An individual is not deemed to acquire control of a licensee when that individual becomes a key individual in the ordinary course of business.

A person or group of persons acting in concert that seeks to acquire control of a licensee in cooperation with such licensee will submit an application prescribed by the Commissioner accompanied by a nonrefundable fee.

Upon request, the Commissioner may permit a licensee, the person, or group of persons acting in concert to submit some or all information required by the Commissioner without using the NMLS. The required application must include all required information for any new key individuals who have not previously completed the application requirements.

When an application for acquisition of control appears to include the required information, the application will be deemed complete and the Commissioner must promptly notify the applicant of the date on which the application was so deemed. The Commissioner must approve or deny the application within 60 days after the completion date.

If the application is not approved or denied within 60 days after the completion date, the application will be deemed approved and the person or group of persons acting in concert will not be prohibited from acquiring control.

The Commissioner may extend the application period for good cause.

A determination by the Commissioner that an application is complete and is accepted for processing will mean only that the application, on its face, appears to include all of the required items. A determination of completion by the Commissioner will not be deemed to be an assessment of the substance of the application or the sufficiency of the information provided.

When an application is filed and considered complete, the Commissioner will investigate the financial condition and responsibility, financial and business experience, and character and general fitness of the person or group of persons acting in concert that seek to acquire control. The Commissioner must approve an acquisition of control pursuant to the Act if the Commissioner finds that all of the following conditions have been fulfilled:

- The requirements of the Act have been met, as applicable; and

- The financial condition and responsibility, financial and business experience, competence, and character and general fitness of the person or group of persons acting in concert seeking to acquire control and the key individuals and persons that would be in control of the licensee after the acquisition of control indicate that it is in the interest of the public to permit the person or group of persons acting in concert to control the licensee.

If the applicant avails itself or is otherwise subject to a multistate licensing process:

- The Commissioner is authorized to accept the investigation results of a lead investigative state for the purposes of the Act if the lead investigative state has sufficient staffing, expertise, and minimum standards; or

- If Kansas is a lead investigative state, the Commissioner is authorized to investigate the applicant pursuant to the Act and the time frames established by agreement through the multistate licensing process.

The Commissioner will issue a formal written notice of the denial of an application to acquire control within 30 days of the decision to deny the application. The Commissioner will state in the notice of denial the specific reasons for the denial. An applicant whose application is denied by the Commissioner may appeal within 14 days and request a hearing in accordance with the KAPA.

The persons to which the requirements in the Act to obtain the written approval of the Commissioner or submit an application to the Commissioner prior to change of control do not apply are outlined in the bill (*e.g.*, persons acting as a proxy for the sole purpose of voting or acquiring control of a licensee as a personal representative, guardian, conservator, or other person appointed by a court or by operation of law).

Persons meeting requirements specified in the bill in cooperation with the licensee would notify the Commissioner within 15 days after the acquisition of control. If notice is not disapproved within 30 days after the date on which the notice was determined to be complete, the notice would be deemed approved.

Before filing an application for approval to acquire control of a licensee, a person could request in writing a determination from the Commissioner as to whether such person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the Commissioner determines that the person would not be a person in control of a licensee, the person and the proposed transaction will not be subject to requirements in the Act to obtain the written approval of the Commissioner or submit an application to the Commissioner prior to change of control.

If a multistate licensing process includes a prior determination from the Commissioner and an applicant avails itself or is otherwise subject to the multistate licensing process:

- The Commissioner is authorized to accept the control determination of a lead investigative state with sufficient staffing, expertise, and minimum standards for the purpose of prior determination from the Commissioner; or

- If Kansas is a lead investigative state, the Commissioner is authorized to investigate the applicant to make a prior determination pursuant to the Act and the time frames established by agreement through the multistate licensing process.

Replacement of Key Individual

The bill requires a licensee adding or replacing a key individual to provide:

- Notice to the Commissioner within 15 days after the effective date of the appointment of the new key individual; and

- Information as required by the bill within 45 days of the effective date of the appointment of the new key individual.

Within 90 days of the date on which the notice provided is determined to be complete, the Commissioner may issue a notice of disapproval of a key individual if the competence, experience, character, or integrity of the individual would not be in the best interest of the public or the customers of the licensee.

A notice of disapproval must state the basis for disapproval and be sent to the licensee and the disapproved individual. A licensee may appeal a notice of disapproval pursuant to the KAPA within 14 days. If the notice provided is not disapproved within 90 days after the date when the notice is determined to be complete, the key individual will be considered approved.

If a multistate licensing process includes a key individual notice review and disapproval process and the licensee avails itself or is otherwise subject to the multistate license process:

- The Commissioner is authorized to accept the determination of another state if the investigating state has sufficient staffing, expertise, and minimum standards for investigation; or

- If Kansas is a lead investigative state, the Commissioner is authorized to investigate the applicant pursuant to the Act and the time frames established by agreement through the multistate licensing process.

Report of Condition

Each licensee is required to submit a report of condition within 45 days of the end of the calendar quarter or within any extended time as the Commissioner may prescribe.

The bill requires the report of condition to include:

- Financial information at the licensee level;

- Nationwide and state-specific money transmission transaction information in every jurisdiction in the United States where the licensee is licensed to engage in money transmission;

- The permissible investments report;

- Transaction destination country reporting for money received for transmission, if applicable; and

- Any other information the Commissioner reasonably requires regarding the licensee.

The bill authorizes the Commissioner to utilize the NMLS for the submission of the report and to change or update as necessary the requirements of this section to carry out the purposes of the Act and maintain consistency with NMLS.

The information required regarding transaction destination country reporting for money received for transmission would only be included in a report of condition submitted within 45 days of the end of the fourth calendar quarter.

Fiscal Year Reporting

Within 90 days after the end of each fiscal year or within any extended time prescribed by the Commissioner through rules and regulations, every licensee must file with the Commissioner:

- An audited financial statement of the licensee for the fiscal year prepared in accordance with U.S. generally accepted accounting principles; and

- Any other information the Commissioner may reasonably require.

The bill requires the audited financial statements to include a certificate of opinion of the independent certified public accountant or independent public accountant in a form and manner determined by the Commissioner. If the certificate or opinion is qualified, the Commissioner is authorized to order the licensee to take any action as the Commissioner may find necessary to enable the accountant to remove the qualification.

Report of Authorized Delegates

Each licensee will be required to submit a report of authorized delegates within 45 days of the end of each calendar quarter. The Commissioner is authorized to utilize the NMLS for the submission of the required report if such utilization is consistent with the requirements of this section.

The bill details the minimum information that each authorized delegate must include in its annual report (*e.g.*, company legal name, physical address, and any business conducted in other states).

Reports of Action Against the Licensee

The bill requires a licensee to file a report with the Commissioner within one business day after the licensee has reason to know of the:

- Filing of a bankruptcy or reorganization petition by or against the licensee;
- Filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for the licensee's dissolution or reorganization, or the making of a general assignment for the benefit of the licensee's creditors; or
- Commencement of a proceeding to revoke or suspend the licensee's license in a state or country where the licensee engages in business or is licensed.

A licensee will be required to file a report with the Commissioner within three business days after the licensee has reason to know of a felony conviction of the licensee, a key individual or person in control of the licensee, or an authorized delegate.

Reports of Money Laundering

The bill requires a licensee and an authorized delegate to file all reports required by federal currency reporting, recordkeeping, and suspicious activity reporting requirements in federal and state laws that pertain to money laundering. The bill deems a timely filing of such complete and accurate report with the appropriate agency to be in compliance with these requirements.

Maintenance of Records

Under the bill, every licensee is required to maintain certain specified records for at least three years (*e.g.*, a record of each outstanding money transmission obligation sold; and a general ledger containing all assets, liability, capital, income, and expense accounts).

The bill allows such required records to be maintained in any form and maintained outside the state, if the records are made accessible to the Commissioner on seven business days' notice. These required records maintained by the licensee will be open to inspection by the Commissioner pursuant to provisions that detail the examination options available to the Commissioner (New Section 5).

Requirements to Conduct Business Through an Authorized Delegate

Regarding the requirements for business conducted through an authorized delegate, the bill defines "remit" to mean making direct payments of money to a licensee or the licensee's

representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.

The bill requires a licensee to comply with the following requirements before being authorized to conduct business through an authorized delegate or allowing a person to act as the licensee's authorized delegate:

- Adopt and update as necessary all written policies and procedures reasonably designed to ensure that the licensee's authorized delegates comply with applicable state and federal law;

- Enter into a written contract that complies with the contract requirements outlined in the bill; and

- Conduct a reasonable risk-based background investigation sufficient for the licensee to determine if the authorized delegate has complied and will likely comply with applicable state and federal law.

Written Contract Requirements

The bill requires the written contract required to do business through an authorized delegate to be signed by the licensee and the authorized delegate and, at a minimum, to include certain specified provisions. Such provisions will include appointing the person signing the contract as the licensee's authorized delegate with the authority to conduct money transmission on behalf of the licensee and requiring the authorized delegate to agree to fully comply with all applicable state and federal laws and rules and regulations pertaining to money transmission.

Notice of Licensee's License Status

Within five business days after the suspension, revocation, surrender, or expiration of a licensee's license, a licensee must provide documentation to the Commissioner that the licensee notified the licensee's applicable authorized delegates who are in the record filed with the Commissioner of such action on the license. All applicable authorized delegates must immediately cease to provide money transmission as an authorized delegate of the licensee upon the suspension, revocation, surrender, or expiration of a licensee's license.

Funds Held in Trust by Authorized Delegate

The bill requires all money net fees received from money transmission to be held in trust by an authorized delegate for the benefit of the licensee. If an authorized delegate commingles any funds received from money transmission with any other funds or property owned or controlled by the authorized delegate, the bill will require that all commingled funds and other property be considered held in trust in favor of the licensee in an amount equal to the amount of money net fees received from money transmission. An authorized delegate is prohibited from using a subdelegate to conduct money transmission.

Money Transmission on Behalf of an Unlicensed or Nonexempt Person

The bill prohibits a person from engaging in the business of money transmission on behalf of a person that is not licensed or exempt from licensing under the Act. A person that engages in such activity would be deemed to have provided money transmission to the same extent that such person were if a licensee and would be jointly and severably liable with the unlicensed or nonexempt person.

Forwarding of Money Received for Transmission

The bill requires every licensee to forward all moneys received for transmission in accordance with the terms of the agreement between the licensee and the sender unless the licensee reasonably believes or has a reasonable basis to believe the sender may be a victim of fraud or that a crime or violation of law or any rules and regulations has occurred, is occurring, or may occur.

If a licensee fails to forward money received for transmission in accordance with this section, the bill requires the licensee to respond to inquiries by the sender with the reason for the failure unless providing a response would violate a state or federal law or rules and regulations.

Exceptions to the Refund of Money Received for Transmission

Within ten days of receipt of the sender's written request for a refund of all money received for transmission, the licensee is required to refund such money to the sender, unless a permissible exception under the Act exists (*e.g.*, the money has been forwarded within ten days of the date when the money was received for transmission).

The refund request should not be construed to enable the licensee to identify the sender's name and address or telephone number or the particular transaction to be refunded if the sender has multiple outstanding transactions.

The refund exceptions will not apply to moneys received for transmission subject to federal law pertaining to the requirements for remittance transfers or pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee.

Receipt for Money Received for Transmission

The requirement that a receipt for money received for transmission be provided to the sender does not apply to:

- Money received for transmission subject to federal law pertaining to the requirements for remittance transfers;

- Money received for transmission that is not primarily for personal, family, or household purposes;

- Money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee; or

- Payroll processing services.

Receipt Requirements

For purposes of the bill's receipt requirements, "receipt" is defined to mean a paper or electronic receipt. For a transaction conducted in person, the bill allows the receipt to be provided electronically if the sender requests or agrees to receive the receipt in such manner. For a transaction conducted electronically or by telephone, the bill allows the receipt to be provided electronically. The bill requires all electronic receipts to be provided in retainable form.

Every licensee or the licensee's authorized delegate will be required to provide the sender a receipt for money received for transmission. The bill establishes the information that must be contained in the receipt, including the name of the sender and designated recipient, transaction date, and unique transaction or identification number.

The bill requires the receipt to be written in English and in the language principally used by the licensee or authorized delegate to advertise, solicit, or negotiate, either orally or in writing, for a transaction conducted in person, electronically, or by telephone, if other than English.

State Bank Commissioner Contact Information

Every licensee or authorized delegate must include on a receipt or disclose on the licensee's website or mobile application the name of the Office of the State Bank Commissioner and a statement that the licensee's Kansas customers could contact the OSBC with questions or complaints about the licensee's money transmission services.

Payroll Processing Services

A licensee that provides payroll processing services is required to issue reports to clients detailing client payroll obligations in advance of the payroll funds being deducted from an account and make available worker pay stubs or an equivalent statement to workers.

These provisions do not apply to a licensee providing payroll processing services where the licensee's client designates the intended recipients to the licensee and is responsible for providing the disclosures.

Tangible Net Worth Requirement

The bill requires every licensee to maintain at all times a tangible net worth of:

- The greater of $100,000 or 3 percent of such licensee's total assets, up to $100.0 million;

- 2 percent of such licensee's additional assets of $100.0 million to $1.0 billion; and

- 0.5 percent of such licensee's additional assets exceeding $1.0 billion.

The bill requires the licensee's tangible net worth to be demonstrated at initial application by the applicant's most recent audited or unaudited financial statements pursuant to application requirements for a license to engage in money transmission.

Despite net worth requirements, the bill grants the Commissioner the authority to exempt any applicant or licensee, in part or in whole, from these provisions.

Security Requirement

The bill requires an applicant for a money transmission license to provide and a licensee to maintain security consisting of a surety bond in a form satisfactory to the Commissioner or, with the Commissioner's approval, a deposit instead of a bond as follows.

The following amount of security is required:

- The greater of $200,000 or an amount equal to 100.0 percent of the licensee's average daily money transmission liability in Kansas calculated for the most recently completed three-month period, up to a maximum of $1.0 million; or

- $200,000, if the licensee's tangible net worth exceeds 10.0 percent of total assets.

If a licensee maintains a bond in the maximum amount provided for above, the licensee will not be required to calculate its average daily money transmission liability. The bill allows a licensee to exceed the maximum required bond amount pursuant to New Section 35, which lists the types of permissible investments a licensee may hold.

Permissible Investment Requirements

The bill requires a licensee to maintain permissible investments with a market value computed according to the U.S. generally accepted accounting principles of not less than the aggregate amount of the total of the licensee's outstanding money transmission obligations.

With the exception of the authorized permissible investments, the bill allows the Commissioner, by rules and regulations or order, to limit the extent to which a specific investment maintained by a licensee within a class of permissible investments may be considered a permissible investment, if the specific investment represents undue risk to customers not reflected in the market value of investments.

The bill authorizes the Commissioner, by rules and regulations or by order, to allow other types of investments that are of sufficient liquidity and quality to be a permissible investment. The bill also authorizes the Commissioner to participate in efforts with other state regulators to

determine which other types of investments are of sufficient liquidity and quality to be a permissible investment.

Permissible Investment Held in Trust

The bill requires permissible investments, even if commingled with other assets of the licensee, to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations outlined in the bill, which include the event of insolvency and the filing of a petition by or against the licensee for receivership.

The bill prohibits permissible investments impressed with a trust to be subject to attachment, levy of execution, or sequestration by order of any court, except for a beneficiary of this statutory trust.

Statutory trust. When a statutory trust is established in accordance with the Act or when any funds are drawn on a letter of credit, the bill requires the Commissioner to notify the applicable regulator of each state where the licensee is licensed to engage in money transmission, if any, that a trust has been established or the funds drawn on the letter of credit, as applicable. If performed pursuant to a multistate agreement or through the NMLS, the bill would deem the notice requirement satisfied. The bill deems funds drawn on a letter of credit and any other permissible investments held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations to be held in trust for the benefit of such purchasers and holders on a *pro rata* and equitable basis in accordance with statutes pursuant to which permissible investments are required to be held in Kansas and other states, as applicable. The bill requires any statutory trust established under its provisions to be terminated when all of the licensee's outstanding money transmission obligations have been extinguished.

Types of Permissible Investments

The following investments are considered permissible:

- Cash, including demand deposits, savings deposits, and funds in accounts held for the benefit of the licensee's customers in a federally insured depository financial institution and cash equivalents, including automated clearinghouse items in transit to the licensee and automated clearinghouse items or international wires in transit to a payee, cash in transit via armored car, cash in smart safes, cash in licensee-owned locations, or debit card- or credit card-funded transmission receivables owed by any bank or money market mutual funds rated AAA by Standard & Poor or the equivalent from any eligible rating service;

- Certificates of deposit or senior debt obligations of a federally insured depository institution;

- An obligation of the United States or a commission, agency, or instrumentality of the United States, an obligation that is guaranteed fully as to principal and interest by the United States, or an obligation of a state or a governmental subdivision, agency or instrumentality of a state; and

- The full drawable amount of an irrevocable standby letter of credit for which the stated beneficiary is the Commissioner that stipulates that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds up to the letter of credit amount within seven days of presentation of the required items listed in this section of the bill.

- With regard to the line of credit, the bill provides:
    - The required elements of the letter of credit;
    - If any notice of expiration or non-extension of a letter of credit is issued when an irrevocable letter of credit is not being extended, the procedure to be followed, licensee requirements, and action that could be taken by the Commissioner to maintain the licensee's permissible investments. The bill provides that the drawn funds would be held in trust by the Commissioner or the Commissioner's designated agent, to the extent authorized by law;
    - The issuer of such letter of credit will be required to honor, at sight, a presentation made of the following required documents by the beneficiary to the issuer on or prior to the expiration date of the letter of credit:
        - The original letter of credit, including any amendments; and
        - A written statement from the beneficiary stating that any of the following events have occurred: the filing by or against the licensee of a bankruptcy or reorganization petition or a petition for receivership or the commencement of any other judicial or administrative proceeding for such licensee's dissolution or reorganization; the seizure of assets of a licensee by a Commissioner pursuant to an emergency order on the basis of an action, violation, or condition that has caused or is likely to cause the insolvency of the licensee; or the beneficiary has received notice of expiration or non-extension of a letter of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee would maintain the required permissible investments, upon the expiration or non-extension of the letter of credit;
    - The Commissioner could designate an agent to serve on the Commissioner's behalf as beneficiary to a letter of credit if the agent and letter of credit meet requirements established by the Commissioner; and
    - The Commissioner could participate in multistate processes designed to facilitate the issuance and administration of letters of credit, including, but not limited to, services provided by the NMLS and registry and the State Regulatory Registry, LLC; and

- 100 percent of the surety bond provided for (New Section 33) that exceeds the average daily money transmission liability in Kansas.

Permissible Investments to the Extent Specified

Unless permitted by the Commissioner by rules and regulations adopted or by order issued to exceed the limit as set forth below, the bill provides that the following investments are permissible to the extent specified:

- Receivables payable to a licensee from the licensee's authorized delegates in the ordinary course of business that are less than seven days old up to 50 percent of the aggregate value of the licensee's total permissible investments; and

- Of the receivables permissible above, receivables payable to a licensee from a single authorized delegate in the ordinary course of business could not exceed 10 percent of the aggregate value of the licensee's total permissible investments.

The bill permits specified investments up to 20 percent per category and up to 50 percent combined of the aggregate value of the licensee's total permissible investments, including a short-term investment of up to six months; commercial paper; and a bill, note, or debenture (each investment must bear an eligible rating).

Cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee's customers, at foreign depository institutions will be permissible up to 10 percent of the aggregate value of the licensee's total permissible investments if the licensee has received a satisfactory rating in the licensee's most recent examination and the foreign depository institution:

- Has an eligible rating;

- Is registered under the Foreign Account Tax Compliance Act;

- Is not located in any country subject to sanctions from the Office of Foreign Assets Control; and

- Is not located in a high-risk or non-cooperative jurisdiction as designated by the Financial Action Task Force.

Process for Suspension or Revocation of a Licensee's License

After notice and an opportunity for a hearing under the KAPA, the bill authorizes the Commissioner to suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate if any of the 13 violations listed occur.

In determining whether a licensee is engaging in an unsafe or unsound practice, the Commissioner may consider the size and condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of the Act, and the previous conduct of the person involved.

Suspension or Revocation of the Designation of an Authorized Delegate

The bill authorizes the Commissioner to issue an order suspending or revoking the designation of an authorized delegate if the Commissioner finds the authorized delegate:

- Violated the Act or any rules and regulations adopted or an order issued under the Act;
- Did not cooperate with an examination or investigation by the Commissioner;
- Engaged in fraud, intentional misrepresentation, or gross negligence;
- Is convicted of a violation of a state or federal anti-money laundering statute;
- Or, the person in control, has competence, experience, character, or general fitness that indicates that it is not in the public interest to permit the authorized delegate to provide money transmission; or
- Is engaging in an unsafe or unsound practice as determined by the Commissioner.

The bill provides what the Commissioner may consider in determining whether an authorized delegate is engaging in an unsafe or unsound practice, such as the size and condition of the authorized delegate's provision of money transmission.

An authorized delegate is permitted to apply for relief from a suspension or revocation of designation as an authorized delegate according to procedures prescribed by the Commissioner in rules and regulations.

Issuance of Cease-and-desist Order

Under provisions of the bill, if the Commissioner determines that a violation of the Act, or of any rules and regulations adopted or an order issued under the Act, by a licensee, person required to be licensed, or authorized delegate is likely to cause immediate and irreparable harm to the licensee, the licensee's customers, or the public as a result of the violation or cause insolvency or significant dissipation of assets of the licensee, the Commissioner may issue an order requiring the licensee or authorized delegate to cease and desist from the violation. The order will become effective upon service of the order on the licensee or authorized delegate.

The Commissioner may issue an order against a licensee to cease and desist from providing money transmission through an authorized delegate that is the subject of a separate order by the Commissioner.

An order to cease and desist would remain effective and enforceable pending the completion of an administrative proceeding pursuant to the KAPA. Additionally, an order to cease and desist would be considered a final order unless the licensee or authorized delegate requests a hearing within 14 days after the cease and desist order is issued.

Consent Orders

The bill authorizes the Commissioner to enter into a consent order at any time with a person to resolve a matter arising under the Act or any rules and regulations adopted or order issued under the Act. The bill requires a consent order to be signed by the person to whom such consent order is issued or by the person's authorized representative and indicate agreement with the terms contained in the order.

Criminal Penalties

The following actions would result in the criminal penalties listed:

- Any person that intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained under this act or that intentionally makes a false entry or omits a material entry in such a record would be guilty of a severity level 9 nonperson felony; and

- Any person that knowingly engages in an activity for which a license is required under the Act without being licensed under the Act and that receives more than $500 in compensation within a 30-day period from this activity would be guilty of a severity level 9 nonperson felony. Receipt of not more than $500 in compensation within a 30-day period from this activity would be a class A nonperson misdemeanor.

Civil Penalties

The Commissioner, as part of any summary order or consent order, is authorized to impose civil penalties (*e.g.*, assessing the agency's operating costs and expenses for investigating and enforcing the Act and prohibiting the person from future application).

Informal Agreement

The bill authorizes the Commissioner to enter into an informal agreement at any time with a person to resolve a matter arising under the Act, rules and regulations adopted under the Act, or an order issued pursuant to the Act. Any informal agreement authorized by this subsection will be considered confidential examination material.

Adoption of an informal agreement authorized by this subsection will not be:

- Subject to the provisions of the KAPA or the Kansas Judicial Review Act;
- Considered an order or other agency action; or
- Discovery or be admissible in evidence in any private civil action.

The provisions of this subsection providing for the confidentiality of public records will expire on July 1, 2030, unless the Legislature reviews and reenacts such provisions in accordance with KORA prior to July 1, 2030.

Penalties from an Examination Finding

The bill authorizes the Commissioner, through an examination finding, to impose the following penalties:

- Assess a fine against any licensee who violates the Act or rules and regulations adopted thereto, in an amount not to exceed $5,000 per violation. The Commissioner may designate any fine collected pursuant to this section for consumer education; or

- Require the licensee to pay restitution for any loss arising from the violation or require the person to reimburse any profits arising from the violation.

Severability of Provisions

The provisions of the Act would be severable. If any portion of the Act is declared unconstitutional or invalid, or the application of any portion of the Act to any person or circumstance is held unconstitutional or invalid, the invalidity would not affect other portions of the Act that could be given effect without the invalid portion or application, and the applicability of such other portions of the Act to any person or circumstance would remain valid and enforceable.

Earned Wage Access Services Act

The bill also creates the Kansas Earned Wage Access Services Act and authorizes the OSBC to regulate earned wage access services providers. The bill establishes registration criteria, including annual reporting and business records requirements, as well as assigns powers and duties to the Commissioner, including examination and enforcement, to ensure compliance with the Act. [*Note:* "Earned Wage Access" is often abbreviated as "EWA."]

Designation, Applicability, and Definitions

The bill designates sections 43–58 of the bill as the Kansas Earned Wage Access Services Act (EWA Act). The bill further specifies the EWA Act does not apply to a bank holding company regulated by the Federal Reserve, a depository institution regulated by a federal banking agency, or a subsidiary of either the holding company or depository institution that directly owns 25.0 percent of the common stock.

Definitions

The bill creates several definitions for terminology used in the EWA Act. Among the definitions established in the bill:

- "Consumer" means an individual who is a resident of the state;

- "Earned wage access services" means the business of providing consumer-directed wage access services or employer-integrated wage access services, or both;

- "Consumer directed wage access services" means offering or providing earned wage access services directly to consumers based on the consumer's representations and the provider's reasonable determination of the consumer's earned but unpaid income;

- "Employer-integrated wage access services" means the business of delivering to consumers access to earned but unpaid income that is based on employment, income, and attendance data obtained directly or indirectly from the employer;

- "Fee" means a fee imposed by a provider for delivery or expedited delivery of proceeds to a consumer or a subscription or a membership fee imposed by a provider for a *bona fide* group of services that include EWA services; the term excludes a voluntary tip, gratuity, or donation;

- "Non-mandatory payment" means an amount paid by a consumer or an obligor to a provider that does not meet the definition of a fee;

    - An example of permissible mandatory payment would be a charge imposed by a provider for delivery or expedited delivery of proceeds to a consumer so long as the provider offers the consumer at least one option to receive proceeds at no cost to the consumer;

- "Obligor" means an employer or other person who employs a consumer or any other person who is contractually obligated to pay a consumer earned but unpaid income in exchange for a consumer's provision of services to the employer or on behalf of the employer on an hourly, project-based, piecework, or other basis, and including where the consumer is acting as an independent contractor;

- "Person" means any individual, corporation, partnership, association, or other commercial entity; and

- "Provider" means a person who is in the business of offering earned wage access services to consumers.

The bill also creates definitions for the terms "act," "commissioner," "director," "earned but unpaid income," "member," "Nationwide Multistate Licensing System and Registry," "nonrecourse," "officer," "outstanding proceeds," "owner," "partner," "principal," "proceeds," and "registrant."

Registration for Persons Engaging in Earned Wage Access Services Business

The bill requires persons engaging in or willing to engage in any EWA services business with a consumer to register with the Commissioner. Such persons must submit a registration

application on forms prescribed and provided by the Commissioner. The bill requires the application to include certain specified information (*e.g.*, applicant name and business address; description of ownership interest of officers, directors, members, and other persons associated with the applicant).

Application for, Approval, and Issuance of Registration

The bill also requires the Commissioner to approve an application and issue a nontransferable and nonassignable registration to the applicant once the Commissioner receives the complete application and application fee and determines the financial responsibility, financial condition, character, qualifications, and fitness warrants a belief that the applicant's business will be conducted competently, honestly, fairly, and in accordance with applicable state and federal laws.

Registration Expiration; Renewal; Failure to Issue

The bill provides the earned wage access services registration will expire on December 31 each year. A registration will be renewed if the person files a complete renewal application with the Commissioner at least 30 calendar days prior to the registration's expiration. The bill requires the renewal application to contain all information the Commissioner requires to determine the existence and effect of any material change from the information contained in the applicant's original application, annual reports, or prior renewal applications. A nonrefundable renewal fee will also be charged.

The bill permits, if the Commissioner fails to issue a registration within 60 calendar days after a filed application is deemed complete, the applicant to make a written request for a hearing. Upon receipt of this request, the Commissioner will be required to conduct a hearing in accordance with the KAPA.

Registration Processing and Exceptions to Registration

The bill also requires the Commissioner, no later than January 1, 2025, to prescribe the form and content of an application for registration to provide EWA services.

The bill allows a person who, as of January 1, 2024, was engaged in the business of providing EWA services to continue to engage in this business until the Commissioner has processed the person's application if such person has submitted an application within three months after the Commissioner has prescribed the application's form and content and the person has complied with the EWA Act.

The bill also provides that the Act's registration requirements do not apply to individuals acting as employees or independent contractors of business entities required to register.

Surety Requirement on Applicants and Registrants

The bill requires each applicant or registrant to file with the Commissioner a surety bond in a form acceptable to the Commissioner. The surety bond must be issued by a surety or insurance company authorized to conduct business in this state, securing the applicant's or

registrant's faithful performance of all duties and obligations. The surety bond must meet requirements specified in the bill, which include being available for the recovery of expenses, fines, and fees levied by the Commissioner and the payment of certain losses or damages and being in the amount of $100,000.

Registration Requirements of Registered Providers

The bill requires providers registered in the state ("registrants") to:

- Provide all proceeds on a non-recourse basis, and treat all fees and non-mandatory payments as non-recourse payment obligations;
- Develop and implement policies and procedures to respond to questions raised by consumers and address consumer complaints in an expedient manner;
- Before providing a consumer with EWA services, inform the consumer of their rights under the agreement, fully and clearly disclose all fees associated with EWA services, and clearly and conspicuously describe how the consumer may obtain proceeds at no cost to such consumer;
- Inform the consumer of any material changes to the terms and conditions of the EWA services before implementing any changes;
- Provide proceeds to a consumer via any means mutually agreed upon;
- Allow a consumer to cancel the use of the provider's EWA services at any time, without incurring a cancellation fee or penalty imposed by the provider;
- Comply with all applicable federal, state, and local privacy and information security laws;
- Disclose certain information if a registrant solicits, charges, or receives a tip, gratuity, or other donation from a consumer (*e.g.*, inform the consumer immediately prior to each transaction that a tip, gratuity, or other donation amount may be zero and is voluntary);
- If a registrant seeks repayment of outstanding proceeds or payment of fees or other amounts owed, in connection with EWA services from a consumer's depository institution, including by means of electronic funds transfer, the registrant must:
    - Inform the consumer when the provider will make each attempt;
    - Comply with applicable provisions of the federal Electronic Fund Transfer Act (EFTA) [15 U.S.C. 1693 *et seq.*] and any adopted EFTA regulations; and

- Reimburse the consumer for the full amount of any overdraft or nonsufficient funds fees imposed on a consumer by the consumer's depository institution that were caused by the provider attempting to seek payment of any outstanding proceeds, fees, or other payments in connection with EWA services on a date before, or in an incorrect amount from, the date or amount disclosed to the consumer. (A provider would not be subject to this reimbursement requirement with respect to payments incurred by a consumer through fraudulent or other unlawful means.)

Prohibitions and Restrictions on Registrants

The bill imposes certain restrictions and prohibitions on persons registered under the EWA Act, including:

- Prohibiting compelling or attempting to compel repayment of outstanding proceeds or payments owed by a consumer through civil suit brought against the consumer, use of a third party to pursue collection, use of outbound telephone calls to attempt collection, or sale of an outstanding amount to a third-party debt collector or debt purchaser;

- Charging a late fee, deferral fee, interest, or any other penalty or charge for failure to repay outstanding proceeds;

- Charging interest or finance charges or charging an unreasonable fee to provide expedited delivery of proceeds to a consumer;

- Misleading or deceiving consumers about the voluntary nature of tips, gratuities, or other donations, or making representation that such contributions will benefit any specific individuals if the registrant solicits, charges, or receives these from a consumer; and

- Reporting a consumer's payment or failed repayment of outstanding proceeds to a consumer credit reporting agency or debt collector.

Applicability of EWA Act with State Law

The bill provides that EWA services provided by a registrant in accordance with the EWA Act shall not be considered to be:

- A loan or other form of credit, nor would the registrant be considered a creditor or lender;

- In violation of or noncompliant with the laws of Kansas governing the sale or assignment of, or an order for, earned but unpaid income; or

- Money transmission, nor would the registrant be considered a money transmitter.

The bill also provides that fees, voluntary tips, gratuities, or other donations paid to a registrant are not to be considered interest or finance charges. The bill further specifies that a registrant that provides proceeds to a consumer in accordance with this act is not subject to provisions of the Uniform Consumer Credit Code in connection with the registrant's EWA services.

Conflict with Law

For any conflict between provisions of this act and any other state statute, the bill provides that provisions of this act control.

Annual Reporting Requirement; Confidential Information; Maintenance of Business Records

The bill requires registrants to file an annual report, on or before April 1 of each year, with the Commissioner relating to earned wage access services provided by the registrant in Kansas during the proceeding year.

Confidential Information; Legislative Review; Written Reports

The bill provides the information contained in the registrant's annual report is confidential and not subject to KORA. This provision will expire on July 1, 2029, unless the Legislature reviews and acts to continue such exception under KORA.

The bill requires a written report detailing an event and its expected impact on the registrant's business to be made to the Commissioner within 15 days of the occurrence of one of the specified events, such as the registrant's filing for bankruptcy or reorganization and the closing or relocation of the registrant's principal place of business.

Failure to Report

The bill provides that the failure to make any required report to the Commissioner may subject the registrant to a late penalty of $100 for each day such report is overdue.

Business Records

The bill requires registrants to maintain and preserve complete and adequate business records, including a general ledger containing all assets, liabilities, capital, income, and expense accounts for a period of three years. Additional recordkeeping requirements are detailed in the bill.

Registration Denial, Suspension, or Revocation; Opportunity for Hearing

The bill establishes criteria by which the Commissioner may deny, suspend, revoke, or refuse to renew a registration if the Commissioner makes such finding, after notice and opportunity for a hearing in accordance with the provisions of KAPA. Such criteria includes the applicant's failure to file and maintain the required surety, the applicant's or registrant's insolvency, and the applicant, registrant, or an employee of either has been subject to certain disciplinary action by the Commissioner or another regulatory jurisdiction.

Administration of the Act; Powers Granted to Commissioner

The bill authorizes the Commissioner to administer the provisions of the EWA Act and exercise powers as designated, including:

- Adopting, amending, and revoking rules and regulations as necessary to carry out the intent of the EWA Act;

- Investigating and examining the operations, books, and records of an EWA services provider as the Commissioner deems necessary;

- Establishing, charging, and collecting fees from applicants or registrants for reasonable costs of investigation, examination, and administration of the EWA Act, in such amounts as the Commissioner may determine are sufficient to meet the agency's budget requirements;

- Exchanging information regarding the administration of this act with any federal agency or any state that regulates the applicant or registrant or with any attorney general or district attorney with jurisdiction to enforce criminal violations of this act; and

- Requiring fingerprinting of any officer, partner, member, owner, principal, or director of an applicant or registrant. Such fingerprints may be submitted to the KBI and the Federal Bureau of Investigation for a state and criminal history record check to be submitted to the OSBC.

Records and Information Release

The bill requires the KBI to release all records of adult convictions, adjudications, and juvenile adjudications in Kansas and of another state or country to the OSBC. The bill provides that state and national history record checks will be considered confidential and not subject to KORA and its disclosure and legislative review provisions.

The bill further specifies examination reports and correspondence regarding such reports will be considered confidential and not subject to disclosure provisions of KORA. The Commissioner is permitted to release examination reports and correspondence in connection with a disciplinary proceeding conducted by the Commissioner, a liquidation proceeding, or a criminal investigation of a proceeding. The bill further specifies actions the Commissioner is

permitted to take in order to conduct examinations, investigations, and proceedings under the EWA Act, and also provide for confidential information contained in informal agreements.

Nationwide Multistate Licensing System and Registry

The bill also requires using of the NMLS for processing applications, renewals, amendments, surrenders, and any other activity the Commissioner deems appropriate. The bill permits the Commissioner to establish relationships or contracts with the NMLS, report violations of the law as well as enforcement actions to the NMLS, and require any applicant or licensee to file reports to the NMLS in the form prescribed by the Commissioner.

Violations of the EWA Act; Enforcement Actions

The bill prescribes enforcement actions the Commissioner may take in the event the Commissioner determines, after notice and opportunity for a hearing pursuant to the KAPA, that a person has engaged, is engaging in, or is about to engage in an act or practice constituting a violation of any provision of this act, adopted rules and regulations, or issued order. These actions include requiring the person:

- Cease and desist from the unlawful act or practice;
- Pay a fine not to exceed $5,000 per incident for the unlawful act or practice, and further, in the instance such violation is committed against elder or disabled persons (as defined in consumer protection law), the Commissioner may impose an additional penalty not to exceed $5,000 for each violation in addition to any other civil penalty provided by law;
    - The bill specifies that any collected fines and penalties associated with the above violations must be designated for use by the Commissioner for consumer education;
- Pay restitution for any loss arising from the violation or requiring the person to disgorge any profits arising from such violation;
- Take such action as in the judgment of the Commissioner will carry out the purposes of this act; and
- Be barred from subsequently applying for registration under this act.

The bill further specifies actions that could require issuance of an emergency cease-and-desist order and notification requirements, including an opportunity for a hearing.

Failure to Obey a Subpoena; Permissible Actions

The bill establishes requirements for cases of failure or refusal to obey a subpoena and permits a court to issue an order requiring a person to appear before the Commissioner or the Commissioner's designee. Failure to appear could be punished by the court as contempt of

court. The bill further specifies that no person could be excused from attending, testifying, or producing any document or record before the Commissioner or in obedience to the subpoena or any proceeding initiated by the Commissioner.

Criminal Penalties; Intentional Violations of the Act; Actions in District Court

The bill states it is unlawful for any person to violate the provisions of, any rules or regulations adopted under, or any order issued under the Act. A conviction for an intentional violation will be a class A nonperson misdemeanor. A second or subsequent conviction will be a severity level 7 nonperson felony.

The bill permits the Commissioner, Attorney General, or a county or district attorney to bring an action in a district court to enjoin any violation of this act or rules and regulations adopted thereunder.

Fees Collected by the Commissioner

The bill provides that all fees collected by the Commissioner are subject to the provisions requiring 10 percent of fees collected to be deposited to the credit of the State General Fund.

Banking Code Amendments

The bill amends the State Banking Code and provisions pertaining to trust companies to address the abandonment or expiration of certain applications; permit any person, regardless of age, to become a depositor in a bank and to enter into an agreement with a bank for the lease of a safe deposit box; and allow an originating trustee to have its principal place of business outside of Kansas.

Abandonment and Expiration of Applications

The bill provides that, if an applicant fails to complete any application under the State Banking Code within 60 days after being notified that the application is incomplete, such application will be considered abandoned and the application fee will not be refunded. The bill permits such applicant to reapply at any time.

The bill also requires a bank or trust company to engage in the activity requiring an application and approval by the Commissioner or the State Banking Board within 18 months from the date of approval. If the bank or trust company fails to comply with this activity deadline, the bill requires the application to be deemed expired and a new application, application fee, and approval to be required.

Extension of Deadline

The bill permits the Commissioner to extend the application deadline indefinitely, if approval from another state or federal regulator is necessary for the bank or trust company to engage in the activity, or up to 180 days for good cause. The State Banking Board may

designate the Commissioner to determine the completeness of any application requiring Board approval or deem as expired any Board-approved application.

Bank Depositors; Acceptance of Deposits from Certain Minors

The bill also amends the State Banking Code to allow any person, regardless of age, to become a depositor in a bank and to enter into an agreement with a bank for the lease of a safe deposit box. The bill also specifies that any bank that accepts deposits from certain minors ages 16 or older cannot require a cosigner or the consent of a custodian for deposit of the minor's funds.

Deposits; Instruments for Withdrawal

The bill provides that any person, regardless of age, may become a depositor in any bank and will be subject to the same duties and liabilities respecting that person's deposits. When the deposit is accepted, it may be withdrawn by the depositor by check or instrument in writing or by certain electronic means (*e.g.*, preauthorized direct withdrawal, a debit card, or a network).

Minors in Custody

The bill provides that any bank that accepts deposits from certain minors cannot require a cosigner or the consent of a custodian for the funds to be deposited. Specifically, these deposit requirements on banks apply to minors in the custody of the Secretary for Children and Families, a federally recognized Indian tribe in Kansas, or the Secretary of Corrections. Under the bill, these minors will be responsible for banking costs or penalties associated with the deposits. The bill also provides the Secretary or designee, or any foster or biological parent, is not responsible for banking costs or penalties associated with a deposit.

Safety Deposit Boxes

The bill provides that any person, either as an individual or with others, may enter into an agreement with a bank for the lease of a safe deposit box and will be bound by the terms of this agreement.

Electronic Funds Transfer Participants

The bill states the provisions of the bill shall not be construed to affect the rights, liabilities, or responsibilities of participants in an electronic funds transfer under the Federal Electronic Fund Transfer Act (15 USC 1693 *et seq*.), as in effect on July 1, 2024, and shall not affect the legal relationship between a minor and any person other than the bank.

Change of Control or Merger—Applications

The bill modifies an application provision for a person acquiring control or a bank or trust company undertaking a merger transaction to provide that, if the Commissioner does not act on the complete application within the 60-day period prior to the proposed change of control or

merger and the applicant has received approval from all other applicable federal and state agencies, the application will stand approved.

Trust Companies—Definitions

The bill amends the definition of "originating trustee" to remove language requiring such trustee (*e.g.,* trust company, bank, national banking association, savings and loan association, or savings bank) to have its principal place of business in this state. The bill further permits either the contracting trustee or the originating trustee to have its principal place of business in this state.

State Credit Union Code—Amendments; Business Outside of the State, Civil Penalties, and Informal Agreement; HB 2561

HB 2561 amends and enacts law supplemental to the State Credit Union Code (Code) to authorize domestic credit unions to do business outside the state, permit the Credit Union Administrator to collect civil penalties for certain practices or violations, and allow the Credit Union Administrator (Administrator) to enter into informal agreements with credit unions. Among amendments to the Code, the bill removes requirements governing duplicate filings, establishes appeals procedures for a suspended member of a credit or supervisory committee, and updates a requirement concerning the approval of a credit union merger.

Conducting Business Outside Kansas

The bill permits domestic credit unions to do business outside of the state if permitted by the laws of that jurisdiction.

Civil Penalties

The bill authorizes the Administrator, after providing notice and opportunity for a public hearing in accordance with the Kansas Administrative Procedure Act, to assess against and collect a civil monetary penalty from any credit union that:

- Engages or participates in any unsafe or unsound practice in connection with a credit union; or

- Violates or knowingly permits any person to violate the provisions of the Code, rules and regulations promulgated pursuant to the Code, or any lawful order of the Administrator.

The bill places a limit on the civil monetary penalty of $1,000 per day such violation occurs. The bill also specifies that the penalty cannot be assessed for the same act or practice if another governmental agency has taken similar action against the credit union. In determining the amount of the penalty, the Administrator must consider these criteria:

- The good faith of the credit union;
- The gravity of the violation;

- Any previous violations by the credit union;
- The nature and extent of any past violations; and
- Such matters as the Administrator deems appropriate.

The bill also provides, upon the waiver of the respondent of the right of a public hearing concerning the civil penalty assessment, the hearing or a portion of such hearing may be closed to the public when concern arises about the prompt withdrawal of moneys from or the safety and soundness of the credit union.

Informal Agreements

The bill permits the Administrator to enter into an informal agreement with any credit union for a plan of action to address possible safety or soundness concerns, violations of law, or any weakness displayed by the credit union if the Administrator determines that the credit union displays:

- Possible safety and soundness concerns or is violating, has violated, or is about to violate any law, rules and regulations, or order of the Administrator resulting in less than satisfactory condition but not to a degree requiring a formal administrative action; or

- Any weakness that if not properly addressed and corrected would be expected to result in future safety and soundness concerns, violations of the law or rules and regulations, and further deterioration in the condition of the credit union.

The bill further provides that the adoption of an informal agreement as established by the bill shall not be subject to the provisions of the Kansas Administrative Procedure Act or the Kansas Judicial Review Act. In addition, informal agreements could not be considered an order or any other agency action and would be considered confidential examination material pursuant to a Code statute pertaining to investigations and examinations by the Administrator.

Code Amendments

Organization of a Credit Union, Filings; Obsolete Reference

The bill removes a requirement that duplicate certificates of organization be signed and duplicate bylaws be submitted by the organizers of a credit union. The bill also removes reference to action of the Charter Board (which was abolished by the repeal of KSA 17-401 in 1972).

Credit or Supervisory Committee Members; Appeal of Suspension

The bill adds to an authorization that permits a credit union's board of directors to suspend or remove members of the credit and supervisory committees for failure to perform their duties to allow the suspended committee member to appeal their suspension. The bill requires the suspension to be acted upon at a meeting of members that must be held within 60

days after the suspension. The bill provides that the suspended person shall have the right to appear and be heard at such meeting.

Credit Union Mergers; Voting by the Merging Credit Union Members

The bill amends a requirement pertaining to the merging of credit unions to require approval of only the members of the merging credit union for such merger to take effect. Under prior law, merger approval must be approved by the members of each credit union planning to merge.

Protect Vulnerable Adults from Financial Exploitation Act; Kansas Contract for Deed Act; Restrictive Covenants; HB 2562

HB 2562 creates the Protect Vulnerable Adults from Financial Exploitation Act and amends the Kansas Uniform Securities Act (KUSA) relating to reporting of instances of suspected financial exploitation, grounds for discipline, and civil and administrative immunity in certain instances; creates the Kansas Contract for Deed Act and authorizes the Kansas Real Estate Commission to issue cease-and-desist orders when the Commission has determined a person is practicing without a valid broker's or salesperson's license; and makes any restrictive covenant on real property in violation of the Kansas Acts Against Discrimination (KAAD) void and unenforceable.

Protect Vulnerable Adults from Financial Exploitation Act

Definitions

The bill establishes several definitions within the act, including:

- "Agent" is assigned its definition from the KUSA and means an individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities or represents an issuer in effecting or attempting to effect purchases or sales of the issuer's securities;

- "Broker-dealer" also is assigned its definition from the KUSA and means a person engaged in the business of effecting transactions in securities for the account of others or for the person's own account [*Note:* Under this uniform act, "broker-dealer" does not include an agent; an issuer; certain banks, savings institutions, or trusts that meet specified conditions in the federal Securities Exchange Act of 1934; an international banking institution; or persons excluded by a rule or order adopted under the KUSA.];

- "Eligible adult" means an elder person or dependent adult as defined in a section in the Kansas Criminal Code pertaining to the mistreatment of a dependent adult and the mistreatment of an elder person;

    - Under the Criminal Code provisions, an elder adult means a person 60 years of age or older; and

- A dependent adult means an individual 18 years of age or older who is unable to protect the individual's own interest;

  - This term also includes an individual who is (1) a resident of an adult care home; (2) an adult cared for in a private residence; (3) an individual kept, cared for, treated, boarded, confined, or otherwise accommodated in a medical care facility; (4) an individual with intellectual disability or a developmental disability receiving services through a community facility for people with intellectual disability or residential facility; (5) an individual with a developmental disability receiving services provided by a community service provider as provided in the Developmental Disability Reform Act; or (6) an individual kept, cared for, treated, boarded, confined, or otherwise accommodated in a state psychiatric hospital or state institution for people with intellectual disability;

- "Financial exploitation" means the unlawful or improper use, control, or withholding of an eligible adult's property, income, resources, or trust funds by any other person or entity to obtain or use an eligible adult's property, income, resources, or trust funds in a manner that is not for the profit of or advantage of the eligible adult. This term includes, but is not limited to:

  - Use of deception, intimidation, coercion, extortion, or undue influence by a person or entity to obtain or use an eligible adult's property, income, resources, or trust funds in a manner for the profit of or to the advantage of such person or entity;

  - Breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship or conservator appointment, as it relates to property, income, resources, or trust funds of the eligible adult; or

  - Obtainment or use of an eligible adult's property, income, resources, or trust funds, without lawful authority, by a person or entity who knows or clearly should know that the eligible adult lacks the capacity to consent to the release or use of such eligible adult's property, income, resources, or trust funds;

- "Investment adviser" is assigned its definition from the KUSA and means a person that, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. The term includes a financial planner or other person that, as an integral component of other financially related services, provides investment advice to others for compensation as part of a business or that holds itself out as providing investment advice to others for compensation.

- Under the KUSA, "investment adviser" does not include an investment adviser representative; a lawyer, accountant, engineer, or teacher whose performance of investment advice is solely incidental to the practice of the person's profession; a broker-dealer or its agents whose performance of investment advice is solely incidental to the conduct of business as a broker-dealer and that does not receive special compensation for the investment advice; a publisher of a *bona fide* newspaper, news magazine, or business or financial publication of general and regular circulation; a federally regulated investment adviser; a bank, savings institution, or trust company; any other person excluded by the federal Investment Advisers Act of 1940 from the definition of investment adviser; or any other person excluded by rule adopted or order issued under the KUSA;

- "Protective agencies" means the state Securities Commissioner (Commissioner) and the Kansas Department for Children and Families (DCF); and

- "Qualified person" means any agent, broker-dealer, investment adviser, investment adviser representative, or person who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser.

The bill also defines the terms "act," "commissioner," "investment adviser representative," and "person reasonably associated with the eligible adult."

Governmental Disclosures; Immunity for Such Disclosures

The bill requires, if a qualified person reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the broker-dealer or investment adviser to promptly report the matter as permitted or required by law. [*Note:* KSA 38-1431 requires certain persons or entities to report instances when the person or entity has reasonable cause to suspect or believe that an adult is in need of protective services or being harmed as a result of abuse, neglect, or financial exploitation. Bank trust officers and other officers of financial institutions are required to make such reports. That act does not currently include those defined persons in the bill that are subject to regulation under the KUSA and the Commissioner.]

The bill also provides that a qualified person who, in good faith and exercising reasonable care, makes a disclosure of information as required by the bill's provisions (section 3) shall be immune from administrative and civil liability that might otherwise arise from such disclosure or for any failure to notify the eligible adult of this disclosure.

Third-party Disclosures; Immunity for Such Disclosures

The bill provides that any person who, in good faith and exercising reasonable care, makes a disclosure of information as required by the bill's provisions (section 3) may notify any person reasonably associated with the eligible adult of the disclosure, unless the qualified person suspects that such person reasonably associated with the eligible adult has committed or attempted financial exploitation of such eligible adult.

The bill also provides that a qualified person who, in good faith and exercising reasonable care, complies with the bill's provisions (section 5) shall be immune from any administrative and civil liability that might otherwise arise from such disclosure.

Delaying of Transactions and Disbursements; Immunity for Delaying

The bill permits a broker-dealer or investment adviser to delay a transaction associated with or a disbursement from an account of an eligible adult or an account on which the eligible adult is a beneficiary if:

- A qualified person reasonably believes, after initiating an internal review of the requested transaction or disbursement and the suspected financial exploitation, that the requested transaction or disbursement may further the financial exploitation of an eligible adult; and

- The broker-dealer or investment adviser:

    - Immediately, and within two business days after the date for the request to delay the transaction or disbursement, provides written notification of the delay and the reason for such delay to all parties authorized to transact business on the account, unless such qualified person reasonably believes that any such party is engaged in suspected or attempted financial exploitation of the eligible adult;
    - Immediately, and within two business days after the requested transaction or disbursement is delayed, notifies the protective agencies; and
    - Continues such internal review of the suspected or attempted financial exploitation of the eligible adult, as necessary, and reports the result of this investigation to the protective agencies upon request.

The bill also provides that any authorized delay of a transaction or disbursement will expire on the soonest of:

- A determination by the broker-dealer or investment adviser that the transaction or disbursement will not result in financial exploitation of the adult; or

- Fifteen business days following the date on which the broker-dealer or investment adviser first delayed the transaction or disbursement, unless either of the protective agencies requests that the broker-dealer or investment adviser extend the delay;

    - If the delay is extended, it shall expire not more than 25 business days after the date on which the transaction or disbursement was first delayed if not terminated sooner or further extended by either of the protective agencies or a court of competent jurisdiction.

The bill permits a court of competent jurisdiction to enter an order extending the delay of the transaction or disbursement or may order other protective relief based on the petition of

either of the protective agencies, the broker-dealer or investment adviser that initiated the delay, or another interested party.

Immunity. The bill provides that a broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with the bill's provisions (section 7) shall be immune from any administrative and civil liability that might otherwise arise from such delay of a transaction or disbursement in accordance with this act.

Records

The bill requires a broker-dealer or investment adviser to provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to the protective agencies or to law enforcement agencies, either as part of a referral to the protective agencies or to law enforcement agencies or upon request of either protective agency or law enforcement agency pursuant to an investigation. The records could include historical records and records relating to the most recent transaction or transactions that may constitute financial exploitation of an eligible adult.

The bill specifies that no record made available to the Commissioner or other agencies under this act will be considered a public record under the Kansas Open Records Act (KSA 45-215 *et seq.*). The provisions pertaining to confidentiality of public records will expire on July 1, 2029, unless the Legislature reviews and acts to continue such provisions.

The bill requires the protective agencies, notwithstanding any provision of law to the contrary, to respond to reasonable inquiries from the notifying qualified person and allow disclosure to the notifying qualified person of the general status or final disposition of any investigation that arose from a report made by such qualified person.

The bill further states that nothing in this act shall limit or otherwise impede the authority of the Commissioner to access or examine the books and records of broker-dealers and investment advisers as otherwise provided by law.

Kansas Contract for Deed Act

The bill enacts the Kansas Contract for Deed Act. Under this act, a seller is prohibited from executing a contract for deed with a buyer if the seller does not hold title to the property. The bill requires the seller to maintain fee simple title to the property free from certain encumbrances, and it establishes that any violation of provisions pertaining to the execution of a contract for deed is deemed a deceptive act or practice under the Kansas Consumer Protection Act.

The bill requires a buyer who fails to cure a default within a specified time frame to record a release of a recorded affidavit of equitable interest or contract for deed and vacate the premises. The bill also provides the seller with remedies should the buyer fail to satisfy such requirements.

Definitions

The bill defines terms applicable to the Kansas Contract for Deed Act, including:

- "Contract for deed," to mean an executory agreement in which the seller agrees to convey title to real property to the buyer and the buyer agrees to pay the purchase price in five or more subsequent payments, exclusive of a down payment, while the seller retains title to the property as security for the buyer's obligation. The term specifically excludes option contracts for the purchase of real property; and

- "Property," to mean real property located in Kansas upon which there is located or will be located a structure designed principally for occupancy by one, two, three, or four families that is or will be occupied by the buyer as the buyer's principal place of residence.

The bill also defines the terms "buyer" and "seller" for this purpose.

Recording of Contract for Deed

The bill provides that any contract for deed or affidavit of equitable interest may be recorded by any interested person in the office of the county register of deeds where the property is located.

Clearing Title Upon Buyer Default; Seller's Remedies

The bill provides that, following the notice of the intent to forfeit and the opportunity to cure the default as outlined in the bill, the buyer will have 15 calendar days to:

- Record a release of affidavit of equitable interest or contract for deed, if such affidavit or contract were recorded; and

- Vacate the premises under contract, if applicable.

If the buyer fails to satisfy the above conditions, the bill provides that such buyer will be responsible for the seller's reasonable attorney fees, costs, and expenses for the removal of the affidavit of equitable interest or contract for deed from the title and eviction of the buyer from the premises, if applicable.

Seller to Hold Title to the Property; Exceptions

The bill prohibits a seller from executing a contract for deed if the seller does not hold fee simple title to the property, free from any mortgage, lien, or other encumbrances (liability). The prohibition would not apply to a mortgage, lien, or encumbrance:

- Due to the conduct of the buyer;

- With the agreement of the buyer as a condition of a loan obtained to make improvements to the property; or

- By the seller prior to the execution of the contract for deed if:
  - The seller disclosed the liability to the buyer;
  - The seller continues to make timely payments on the outstanding liability;
  - The seller disclosed the contract for deed to a party of interest to the liability; and
  - The seller satisfies and obtains a release of the liability not later than the date of the final contract for deed payment by the buyer, unless the buyer assumes the liability as part of such contract.

Violations of the specified title liability prohibitions will be considered a deceptive act and be subject to enforcement under the Kansas Consumer Protection Act.

Contract for Deed: Buyer's Rights

The bill provides that a buyer's rights under a contract for deed will not be forfeited or canceled except as specified in the bill. However, under the bill, a contract may provide for forfeiture of a buyer's rights. Additionally, the bill contains a statement that the provisions on a buyer's rights could not be construed to limit the power of a district court to require equitable foreclosure proceedings.

A buyer's rights will not be forfeited until the buyer has been notified of the intent to forfeit and has been given a right to cure the default and has not done so within the time period allowed. A notice of default and intent to forfeit must:

- Reasonably identify the contract and describe the property covered by it;

- Specify the terms and conditions of the contract with which the buyer has not complied; and

- Notify the buyer that the contract will be forfeited unless the buyer performs the terms and conditions within the following time periods:
  - 30 days from completed service of notice if the buyer has paid less than 50 percent of the purchase price; or
  - 90 days from completed service of notice if the buyer has paid 50 percent or more of the purchase price.

The bill requires such notice be served on the buyer in person, delivered directly to the buyer's residence, or delivered by certified or priority mail to the buyer's residence with return receipt requested.

Restrictive Covenants

The bill also makes any restrictive covenant on real property on any deed, plat, declaration, restriction, covenant, or other conveyance in violation of the KAAD void and unenforceable. The bill allows the owner of the real property to release such covenants from their property by recording a certificate of release of prohibited covenants with the register of deeds. The certificate of release is subject to recording fees set by the county. The bill requires the certificate of release to have the following information:

- The name of the current owner of the real property;
- A legal description of the real property;
- The volume and page or the document number in which the original document containing the restrictive covenant is recorded;
- A brief description of the restrictive covenant; and
- The citation to the location of the restrictive covenant in the original document.

Reporting of Instances of Suspected Financial Exploitation

The bill amends provisions in the KUSA applying to discipline of applicants and registrants to add to the criteria provided for grounds for discipline, which includes censure, a bar or suspension with a broker-dealer or investment adviser registered in the state, and a civil penalty up to $25,000 for each violation. The bill adds a knowing failure to make a report required under the Protect Vulnerable Adults from Financial Exploitation Act or knowingly causing such report to not be made within the previous ten years.

Cease-and-desist Orders

The bill amends law pertaining to real estate brokers and salespersons to provide recourse against individuals practicing without a license. If the Kansas Real Estate Commission determines a person has practiced without a valid broker's or salesperson's license issued by the Commission, the Commission may issue a cease-and-desist order in accordance with the Kansas Administrative Procedure Act against such unlicensed person or associated association, corporation, limited liability company, limited liability partnership, partnership, professional corporation, or trust.

Homeowners Associations

The bill amends the KAAD to state, when a board of directors of an association removes a restrictive covenant in violation of the KAAD, the recording of the amended document is subject to county recording fees.

The bill allows a city or county to adopt a resolution to record a certificate of release of prohibited covenants (certificate) if the homeowners association that established the prohibited

covenant is not active and unable to release the prohibited covenants. The resolution could also remove more than one prohibited covenant. The bill does not require the signature or consent of any affected property owner to record a certificate.

The bill does not affect the validity of any property interest recorded within the original or redacted plat and states no city or county will incur any liability arising from the recording of a certificate. The bill also states that no fee could be charged to record a certificate, and any record of a certificate will be exempt from land surveys.

Parental Consent for Minor Health Care; No Patient Left Alone Act; Rural Emergency Hospital Licensure; Authorized Activities of Emergency Medical Responders; House Sub. for SB 287

House Sub. for SB 287 requires parental consent to health care services for a minor child provided in a school facility, establishes the No Patient Left Alone Act (Act), expands the eligibility of facilities regarding the licensure of rural emergency hospitals (REHs), and amends law concerning emergency medical services (EMS) to add provisions allowing distribution of nonprescription, over-the-counter (OTC) medications, as approved by the EMS medical director, to the list of interventions that emergency medical responders may provide.

Parental Consent for Minor Health Care

Definitions

The bill defines the following terms:

- "Appropriate licensing agency" means the agency that issues the license, certification, or registration to the health care provider;

- "Behavioral health crisis" means behavioral and conduct issues that impact the safety or health of a juvenile, members of the juvenile's household, or family or members of the community, including, but not limited to, non-life-threatening mental health and substance abuse concerns;

- "Consent" means assent in fact, whether expressed or apparent;

- "Drug" means articles, as defined in the Pharmacy Act (KSA 65-1626), that are:

    - Recognized in the official U.S. Pharmacopeia, or other such official compendiums of the United States, or official national formulary, or any supplement to any of them;

    - Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human or other animals;

    - Other than food, intended to affect the structure or any function of the body of human or other animals; and

    - Intended for use as a component of any articles specified previously; but does not include devices or their components, parts, or accessories, except that the term "drug" does not include amygdalin (laetrile) or any livestock remedy, if such livestock remedy had been registered in accordance with statutes regarding livestock and domestic animals prior to their repeal;

- "Healthcare provider" means a person who is licensed by or holds a temporary permit to practice that is issued by the State Board of Healing Arts, the Board of Nursing, or the Behavioral Sciences Regulatory Board;

- "Minor" means an individual under 18 years of age;

- "Parent," as defined in KSA 38-141, which includes the following: a natural parent, an adoptive parent, a stepparent, or a guardian or conservator of a child who is liable by law to maintain, care for, or support the child; and

- "School facility" means any building or structure owned, operated, or maintained by the board of education of a public school or by the governing body of an accredited nonpublic school if such facility is accessible to students.

Health Care Prohibitions at a School Facility

Unless the health care provider has the consent of a minor's parent, the bill prohibits a health care provider at a school facility from the following actions:

- Prescribing, dispensing, or administering any prescription or nonprescription drug;

- Administering a diagnostic test with the minor's bodily fluid; or

- Conducting ongoing behavioral health treatment.

A health care provider who violates these provisions will be subject to professional discipline from the health care provider's appropriate licensing agency.

Exceptions

The bill will not prevent a health care provider at a school facility from the following actions:

- Administering a non-academic test, questionnaire, survey, or examination pursuant to KSA 72-6316;

- Administering a suicide risk assessment or screening tool for suicide risk, pursuant to KSA 72-6316(f), or conducting a behavioral health assessment or intervention for a minor experiencing a behavioral health crisis;

- Conducting a school-based screening required by law; or

- Providing education to a minor.

Consent Requirements Not Changed

The bill clarifies that this bill would not repeal nor change any consent requirements in continuing law provided in the following statutes:

KSA 38-122. Consent by a parent for surgery and other procedures on a child;

KSA 38-123. Consent for medical care of an unmarried pregnant minor;

KSA 38-123a. Donation of blood by persons over 16; compensation;

KSA 38-137. Immunization of minor children; written delegation of consent by parent; consent for immunization by person other than parent; when;

KSA 38-2217. Health services (Kansas Code for Care of Children);

KSA 65-2891. Emergency care by health care providers; liability; standards of care applicable; definition of health care provider;

KSA 65-2892. Examination and treatment of persons under 18 for venereal disease; liability; and

KSA 65-2892a. Examination and treatment of minors for drug abuse, misuse, or addiction; liability.

No Patient Left Alone Act

Definitions

The bill defines terms, including:

- "Essential caregiver," to mean an individual designated by the patient who meets an essential need of the patient by assisting with the tasks of daily living or providing important emotional, social, or psychological support;

- "Immediate family member," to mean father, mother, stepparent, child, grandchild, stepchild, sibling, spouse, or grandparent of the patient;

- "Patient," to mean an individual who is receiving care at a patient care facility; and

- "Patient care facility," to mean any adult care home, including any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home, adult day care facility, hospital, ambulatory surgical center or recuperation center, and hospice facility certified to participate in the Medicare program that provides service only to hospice patients.

Patient Visitation Requirements

The bill prohibits a patient care facility, when providing end-of-life care, to take action to prevent a patient from receiving in-person visitation from any person designated by the patient, if the patient has the capacity to make such designation. If the patient does not have the capacity for such designation, the patient's agent for health care decisions established by a durable power of attorney would be allowed to designate visitors. Visitors could include, but would not be limited to:

- An immediate family member, domestic partner, or significant other;
- The agent for health care decisions established by a durable power of attorney for health care decisions;
- An essential caregiver; or
- A minister, priest, rabbi, or clergyperson of any religious denomination or sect to which the patient is an adherent.

The bill prohibits patient care facilities from prohibiting a patient from receiving in-person visitation from one or more individuals at a time. The bill also establishes that a patient may refuse in-person visitation or revoke previously granted in-person visitation from any person at any time.

Patient Visitation Policies and Procedures

The bill provides that patient care facilities may establish visitation policies by September 1, 2024, including, but not limited to, infection control protocols and education for visitors, a set schedule of dates and times when visitation is allowed, allowable visit length, and limits on number of visitors.

The bill also provides that visitation policies and procedures must allow in-person visitations, unless the patient objects, if the patient is:

- Terminally ill or receiving end-of-life care;
- Making one or more major medical decisions;
- Experiencing emotional distress or grieving the recent loss of a friend or family member;
- Experiencing functional, cognitive, or nutritional decline;
- Struggling with the change in environment at the patient care facility after having previously lived with such patient's immediate family member;

- Admitted to a medical care facility for childbirth, including care related to a miscarriage or stillbirth; or

- Under 18 years of age.

The bill requires visitation policies and procedures to be provided to the patient care facility's licensing agency at the time of initial licensure, renewal, or at any time upon request and be easily accessible from the home page of the patient care facility's website.

The bill specifies that visitation policies and procedures cannot contain more stringent infection control protocols for visitors than for employees of the patient care facility who are providing direct care to patients.

The bill establishes that a patient care facility may:

- Adopt visitation policies and procedures that are more stringent for intensive or critical care units;

- Modify visitation based on a patient's condition or need for rest;

- Require a visitor to agree in writing to follow the facility's policies and procedures;

- Temporarily suspend a visitor's in-person visitation if such visitor violates the facility's policies and procedures;

- Revoke a visitor's in-person visitation if such visitor repeatedly violates the facility's policies and procedures or displays any violent or aggressive behavior; or

- Require a visitor to adhere to infection control procedures, including wearing personal protective equipment.

The bill also requires the Department of Health and Environment to publish an explanation of visitation requirements and a link for individuals to report complaints alleging violations by a patient care facility on its website.

Civil Liability Immunity; Federal Program Participation

The bill provides civil liability immunity for damages to the patient care facility taken in compliance with these requirements except in cases of gross negligence or willful, wanton, or reckless conduct.

The bill will not supersede any federal laws, rules, or regulations regarding patient care facilities or prohibit a patient care facility from taking actions necessary, including those based on guidance from the Centers for Medicare and Medicaid Services, to ensure eligibility with federal programs or financial participation and reimbursement for services provided in the patient care facility.

Rural Emergency Hospital Licensure

The bill expands eligibility for REH licensure to facilities that were at any point during the period between January 1, 2015, and December 26, 2020, one of the following types of facilities:

- Licensed critical access hospital;
- General hospital with no more than 50 licensed beds located in a county in a rural area as defined in Section 1886(d)(2)(D) of the federal Social Security Act;
- General hospital with no more than 50 licensed beds that is deemed as being located in a rural area pursuant to Section 1886(d)(8)(E) of the federal Social Security Act; or
- A department of a provider or a provider-based entity.

The bill defines "provider-based entity" as a provider of health care services or a rural health clinic that is either created by, or acquired by, a main provider for the purpose of furnishing health care services of a different type from those of the main provider under the ownership and administrative and financial control of the main provider (42 CFR § 413.65).

Continuing law provides for a licensed general hospital or critical access hospital that applies for and receives licensure as an REH and elects to operate as an REH to retain its original license as a general hospital or critical access hospital. The bill expands this provision to cover provider-based entities or provider departments.

Effective Date

The bill requires, when the Rural Emergency Hospital Adjustment Act (S. 3394, 118th Congress (2023)) is enacted into law, the Attorney General to certify its passage to the Secretary of State. Upon receipt of the certification, the Secretary of State will be required to publish the certification in the *Kansas Register*.

Authorized Activities of Emergency Medical Responders

Distribution of Emergency Opioid Antagonists

The bill provides for first responders, scientists, or technicians operating under a first responder agency or school nurse to distribute emergency opioid antagonists (*e.g.*, naloxone, also known as Narcan) as clinically indicated, provided that all personnel with access to the emergency opioid antagonists receive training as outlined in statute, including training on standards and procedures for distribution.

Over-the-Counter Medications Administered by Emergency Medical Responders

The bill adds provisions allowing the distribution of non-prescription, OTC medications by emergency medical responders, as approved by the EMS medical director.

The EMS medical director will not be authorized to include as approved OTC medications any compound, mixture, or preparation that has a detectable quantity of ephedrine or pseudoephedrine and that is exempt from being reported to the statewide electronic logging system for the sale of methamphetamine precursors.

Institutional Licenses Issued by State Board of Healing Arts; SB 433

SB 433 clarifies the practice privileges of institutional license holders who are employed by the Kansas Department for Aging and Disability Services or the Kansas Department of Corrections, or by a third party contracted by the institution.

Cause of Death Certification; HB 2358

HB 2358 modifies the Uniform Vital Statistics Act provisions concerning who could certify a cause of death.

Cause of Death Certifier

The bill specifies that a cause of death certifier could certify the cause of death of a deceased person. The bill defines "cause of death certifier" to mean:

- A person licensed to practice medicine and surgery by the State Board of Healing Arts (Board);
- A physician assistant licensed by the Board;
- An advanced practice registered nurse licensed by the Board of Nursing;
- District coroner;
- Deputy coroner; or
- Special deputy coroner.

Technical and Conforming Amendments

The bill makes technical and conforming amendments to implement the bill's provisions, including replacing references to medical certifications regarding the death of person by specifying the certification as a "cause of death" certification.

Amendments to the Uniform Controlled Substances Act; Emergency Medication Kits in Schools; HB 2547

HB 2547 amends the state Uniform Controlled Substances Act (Act) and amends the law regarding the stock, maintenance, and administration of emergency medication kits in schools, including epinephrine and albuterol.

The bill amends the liability protections for any person who renders emergency care or treatment at a school, school-sponsored event, or school property as well as provide a level of immunity from liability for a pharmacist, physician, or a mid-level practitioner who distributes or prescribes emergency medications to a school or provides training on the administration of the emergency medicine for school personnel, and for the school personnel who administer the medications under specific circumstances.

Uniform Controlled Substances Act

Schedule I

The bill adds 35 new substances to the Act, including 23 fentanyl-related controlled substances.

Schedule II

The bill adds four additional substances to be excluded from control as Schedule II opioids: thebaine-derived butorphanol, naldemedine, naloxegol, and samidorphen.

Schedule IV

The bill adds daridorexant (brand name Quiviviq), a medication used to treat insomnia, and serdexmethylphenidate, an active ingredient in medication used to treat attention-deficit/hyperactivity disorder (ADHD) to the list of Schedule IV substances. The bill removes fenfluramine (brand name Fintelpla), a U.S. Food and Drug Administration (FDA)-approved medication used to treat seizures, to mirror the federal descheduling of the drug.

Schedule V

The bill adds ganaxolone (brand name Ztalmy), a medication used to treat a particular type of seizure, to the list of Schedule V substances.

Emergency Medication Kits

Definitions

The bill amends law regarding emergency medication kits to add definitions for terms used throughout the bill. Key terms include the following:

- "Albuterol" means a short-acting beta-2 agonist-inhaled medication, otherwise known as a bronchodilator, that is prescribed by a physician or mid-level practitioner for the treatment of respiratory distress;

- "Designated school personnel" means an employee, officer, agent, or volunteer of a school who has completed training, documented by the school nurse, a physician, or a mid-level practitioner, to administer emergency medication on a voluntary basis outside of the scope of employment;

- "Emergency medication" means epinephrine or albuterol;

- "Epinephrine" means a medication prescribed by a physician or mid-level practitioner for the emergency treatment of anaphylaxis prior to the arrival of emergency medical system responders;

- "Mid-level practitioner" means a certified nurse-midwife engaging in the independent practice of midwifery under the Independent Practice of Midwifery Act, an advanced practice registered nurse issued a license and who has authority to prescribe drugs, or a physician assistant licensed pursuant to the Physician Assistant Licensure Act who has authority to prescribe drugs pursuant to a written agreement with a supervising physician;

- "Pharmacist" means any natural person licensed under the Pharmacy Act to practice pharmacy;

- "Physician" means any person licensed by the State Board of Healing Arts to practice medicine and surgery;

- "Respiratory distress" means impaired ventilation of the respiratory system or impaired oxygenation of the blood;

- "School" means any school operated by a school district organized under the laws of this state or any accredited nonpublic school that provides education to elementary or secondary students;

- "School nurse" means a registered nurse licensed by the Board of Nursing to practice nursing in Kansas or a licensed practical nurse working under a registered nurse who is employed by a school to perform nursing services in a school setting; and

- "Stock supply" means an appropriate quantity of emergency medication as recommended by a physician or mid-level practitioner.

Stock Supply of Emergency Medications in a School

The bill allows schools to maintain a stock supply of emergency medications with a prescription from a physician or mid-level practitioner in the name of the school. The bill requires a physician or mid-level practitioner to review a school's policies and procedures regarding the

use, storage, and maintenance of the stock supply prior to prescribing the emergency medication.

Type, Doses, and Administration in Emergency Situation

The bill defines the type and doses of epinephrine that may be in the stock supply as one or more standard-dose or pediatric-dose epinephrine auto-injectors. A school nurse or designated school personnel may administer the epinephrine in an emergency situation to any individual who displays the signs and symptoms of anaphylaxis at school, on school property, or at a school-sponsored event. The epinephrine is only permitted to be administered by the school nurse or designated school personnel if they reasonably believe that an individual is exhibiting the signs and symptoms of an anaphylactic reaction.

The bill defines the type and doses of albuterol that may be in the stock supply as one or more albuterol metered-dose inhalers, one or more doses of albuterol solution, and one or more spacers or nebulizers. A school nurse or designated school personnel may administer the albuterol in an emergency situation to any individual who displays the signs and symptoms of respiratory distress at school, on school property, or at a school-sponsored event. The albuterol is only permitted to be administered by the school nurse or designated school personnel if they reasonably believe that an individual is exhibiting the signs and symptoms of respiratory distress.

Policy and Procedures

The bill requires that any school that maintains a stock supply of emergency medication establish school policies and procedures on the following:

- Storage of the emergency medication, which includes storage in a safe location that is readily accessible to the school nurse or designated school personnel and meets manufacturer's temperature recommendations;
- Periodic monitoring of the inventory and expiration dates of the emergency medication;
- Administration of emergency medication by designated school personnel; and
- Training requirements for designated school personnel, to be conducted at least annually. The training must include, at minimum:
    - Recognition of the symptoms of anaphylaxis and respiratory distress;
    - Administration of emergency medications;
    - Calling for emergency medical system responders;
    - Monitoring the condition of the individual after administration of emergency medication;
    - Notification of the parent, guardian, or next of kin; and
    - Safe disposal and sanitation of used equipment.

The bill also requires the school to publish information related to the school's policies and procedures regarding emergency medication and maintain training records of designated school personnel.

The bill also authorizes a school to accept monetary gifts, grants, and donations as well as donations of emergency medications authorized under the bill from a manufacturer or wholesaler.

Pharmacists

The bill allows a pharmacist to distribute a stock supply of emergency medications, including standard-dose and pediatric-dose epinephrine auto-injectors and albuterol metered-dose inhalers, albuterol solution, and spacers to a school pursuant to a prescription from a physician or mid-level practitioner in the name of the school.

The bill provides for a pharmacist that distributes a stock supply of emergency medication to not be liable for civil damages resulting from the administration of the emergency medication.

Administration of Emergency Medication

Continuing law provides that administration of epinephrine in emergency situations to a student or member of school staff when certain conditions are met is not construed to be included in the practice of the healing arts. The bill extends that exception to add the administration of albuterol in emergency situations and apply it to any individual receiving the emergency medication when certain conditions are met, including if:

- The person administering the epinephrine reasonably believes the individual is exhibiting the signs and symptoms of an anaphylactic reaction;

- The person administering the albuterol reasonably believes the individual is exhibiting the signs and symptoms of respiratory distress;

- A physician or mid-level practitioner, after reviewing the school's policies and procedures, has authorized, in writing, the school to maintain a stock supply of emergency medication; and

- The emergency medication is administered at school on school property or at a school-sponsored event.

The bill amends the current liability protections for any person who in good faith renders emergency care or treatment, without compensation, to an individual at a school, on school property, or at a school-sponsored event, and adds protection for any school that employs or contracts such person.

The bill limits the liability of a physician or mid-level practitioner who writes a prescription for the stock supply of emergency medication or provides training to school personnel on the administration of emergency medication in that the medical professional would not be liable for civil damages resulting from the administration of the emergency medication.

Certification, Licensing, and On-site Inspections; HB 2784

HB 2784 transfers authority for certification of continuing care retirement communities (CCRCs) from the Kansas Insurance Department (Department) to the Kansas Department for Aging and Disability Services (KDADS).

The bill permits the Secretary for Aging and Disability Services to waive a requirement of the rules and regulations related to licensing of disability services in certain circumstances, includes a definition for "day service provider" as it relates to criminal history record checks, and requires notices to licensees to include information on appeals available under the Kansas Administrative Procedure Act (KAPA) and the Kansas Judicial Review Act (KJRA).

The bill also amends law regarding the certification of Certified Community Behavioral Health Centers (CCBHCs).

The bill prohibits the State Fire Marshal (Marshal) and the Marshal's representatives from wearing or operating an audio or video recording device during an on-site inspection in certain facilities.

Use of Body Camera or Other Audio or Video Recording Device by State Fire Marshal and Marshal's Representatives

The bill prohibits the Marshal and the Marshal's representatives from wearing or operating a body camera or other audio or video recording device during an on-site inspection in a licensed care facility or community-based locations where individuals with intellectual and developmental disabilities (I/DD) receive habilitation services.

Definitions Regarding Inspections of Facilities by State Fire Marshal

The bill defines these terms:

- "Body camera" means a device that is worn by a law enforcement officer that electronically records audio or video of such officer's activities; and

- "Licensed care facility" means child care facilities and adult care homes and include the following types of facilities:

    - Child care facility, as defined in KSA 65-503, which includes the following:

        - A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging, or both, except children in the custody of the Secretary for Children and Families who are placed with a prospective adoptive family or who are related to the person by blood, marriage, or legal adoption;

        - Children's home, orphanage, maternity home, day care facility, or other facility of a type determined by the Secretary of Health and Environment to require regulation;

- Child placement agency or child care resource and referral agency, or a facility maintained by such an agency for the purpose of caring for children under 16 years of age; or
- – - Any receiving or detention home for children under 16 years of age provided or maintained by, or receiving aid from, any city or county or the State;

- Qualified residential treatment program, which includes a program designated by the Secretary for Children and Families as a qualified residential treatment program pursuant to federal law;
- Psychiatric residential treatment facility, which includes any non-hospital facility with a provider agreement with the licensing agency to provide the inpatient services for individuals under the age of 21 who will receive highly structured, intensive treatment for which the licensee meets the requirements as set forth by regulations created and adopted by the Secretary for Children and Families;
- Secure facility, which means a facility, other than a staff secure facility or juvenile detention facility, that is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or that relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents. No secure facility is in a city or county jail;
- Shelter facility, which means any public or private facility or home, other than a juvenile detention facility or staff secure facility, that may be used in accordance with the Revised Kansas Code for Care of Children for the purpose of providing either temporary placement for children in need of care prior to the issuance of a dispositional order or longer-term care under a dispositional order;
- Youth residential facility, which means any home, foster home, or structure that provides 24-hour-a-day care for children and that is licensed by the Kansas Department of Health and Environment;
- Any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home, and adult day care facility, all of which are classifications of adult care homes and are required to be licensed by the Secretary for Aging and Disability Services;
- Medical care facilities, which includes hospitals, ambulatory surgical centers, or recuperation centers; and
- Hospice facilities that are certified to participate in the Medicare program under 42 CFR § 418.1 *et seq*.

Disability Service Provider Licenses

Waivers of Adopted Rules and Regulations for Disability Service Provider Licenses

The bill allows the Secretary for Aging and Disability Services (Secretary) to grant a waiver for disability service provider licenses for a violation of rules and regulations if the waiver is in the public interest and would not detrimentally affect the life, safety, health, or welfare of any person receiving care or treatment in a licensed center, facility, or hospital, or an individual receiving services from a licensed provider.

Criminal History Record Checks for Day Service Providers

The bill requires persons who meet the definition of "day service provider" to have a criminal history record check completed and specify such persons could be disqualified from employment based upon their criminal history record check.

The term "day service provider" means a provider of day support services for development in self-help, social, recreational, and work skills for adults with I/DD that is licensed by KDADS or a separate and distinct dedicated division of a provider of day support services for development in self-help, social, recreational, and work skills for adults with intellectual or developmental disabilities licensed by KDADS.

Disability Service Providers Licensing Failure to Comply

Whenever a failure to comply with requirements, standards, or adopted rules and regulations is found, the bill permits the licensing agency to make an order denying, conditioning, restricting, suspending, or revoking the disability service provider license after issuing a notice and opportunity for a hearing in accordance with KAPA. [*Note:* Law required the licensing agency to issue an order denying, suspending, or revoking the license of a disability service provider when a substantial failure to comply with requirements, standards, or rules and regulations is found.]

The bill also provides for a person to appeal an order made on a license. "Person" is defined as any person:

- Who is an applicant for a license or who is the licensee and who has any direct or indirect ownership interest of 25 percent or more in the center, facility, or hospital; or

- Who is the owner, in whole or in part, of any mortgage, deed of trust, note, or other obligation secured, in whole or in part, by the center, facility, or hospital; or

- Who, if the center, facility, hospital, or provider is organized as a corporation, is an officer or director of the corporation, or who, if the facility is organized as a partnership, is a partner.

Disability Service Providers Licensing Notice of Appeal

Continuing law provides for, if it is found upon reinspection that a licensee has not corrected the deficiency or deficiencies specified in the correction order, the Secretary may assess a civil penalty, and a written notice of assessment would be served upon the licensee. The bill adds that when a licensee is issued a written notice of assessment, the licensee must be notified of the opportunity to be heard under KAPA and that an appeal of an administrative order may be made to the district court, in accordance with the provisions of KJRA.

Disability Service Providers Licensing Civil Penalty

The bill specifies that a licensee has ten days to appeal a civil penalty assessment after receiving written notice of assessment. The licensee will be required to file a written notice of appeal with the Office of Administrative Hearings (OAH) specifying why the civil penalty should not be assessed. However, the filing of a notice of appeal will not stay the payment of a civil penalty. OAH will be required to have a hearing on the notice of appeal. If OAH finds in favor of the appellant licensee and the Secretary affirms the initial order, the civil penalty will be refunded to the appellant licensee. Either party will be permitted to file an appeal on the final order to the District Court in accordance with KJRA.

Certified Community Behavioral Health Center Certification

The bill requires that, prior to February 1, 2027, only Community Mental Health Centers (CMHCs) licensed by KDADS and that provide certain services could be certified as CCBHCs in Kansas. On or after February 1, 2027, the bill requires KDADS to certify as a CCBHC any CMHC or qualified nonprofit provider that is licensed by KDADS and provides certain services.

The bill also requires KDADS to adopt rules and regulations to implement and administer the certification process.

CCBHC Certification Renewal

The bill specifies that programs and treatments provided by a CCBHC may be granted a certification renewal if such programs and treatments have been:

- Previously certified by the Secretary; and

- Accredited by the Commission on Accreditation of Rehabilitation Facilities, the Joint Commission, or another national accrediting body approved by the Secretary.

Continuing Care Retirement Communities

Definitions

The bill adds a definition of CCRC to law regarding adult care homes. “Continuing care retirement community” means any place or facility that combines a range of housing and

services to encompass the continuum of aging care needs provided at an independent living facility, an assisted living facility, a residential health care facility, home plus, or a skilled nursing care facility within a single place or facility to avoid the need for residents to relocate to a separate place or facility. The provision on community care includes the multiple levels of care provided as part of a CCRC.

The bill also adds a definition for "continuing care" in law regarding insurance uniform policy provisions. Continuing care means the multiple levels of care provided as part of a CCRC.

Certification Authority for Continuing Care Retirement Communities

The bill transfers authority for certifying CCRCs by replacing the definition of "Commissioner" with "Secretary" to mean the Secretary in the insurance uniform policy provisions statute regarding CCRCs. The bill also replaces "Commissioner" with "Secretary" to clarify in the continuing law that the Secretary would:

- Prescribe an annual disclosure statement for CCRC providers to complete;
- Accept annual disclosure statements filed by CCRC providers, continuing care contracts, and annual audits certified by a certified public accountant;
- Accept copies of continuing care contract forms entered into between the provider and any resident and associated required documents;
- Issue certificates of registration for CCRC providers;
- Prescribe and accept applications for CCRC certificates of registration; and
- Renew certificates of registration with appropriate notification and payment of the continuation fee, unless the Secretary determines that the CCRC is not in compliance with statute.

The bill specifies that CCRC providers will be required to file annual disclosure statements, continuing care contracts, and annual audits within four months of completion of such provider's fiscal year. The bill also requires the Secretary to renew certificates of registration for CCRCs in compliance with requirements within four months of completion of such provider's fiscal year.

The bill also transfers to the Secretary the authority to adopt any rules and regulations necessary to carry out CCRC oversight.

Insurance: Utilization Review Organization Act; Electronic Notice; Financial Reporting of Certain Pools; Notification Requirements; Fees; SB 356

SB 356 amends the Utilization Review Organization Act and the Electronic Notice and Document Act. The bill amends provisions pertaining to certain financial reporting requirements on group-funded liability and group-funded workers compensation pools, and also removes certain notification requirements.

The bill also establishes a tiered-fee structure for financial examinations of insurance companies and societies based on the gross premiums received by such entities; amends the effective date specified in the Insurance Code for the risk-based capital (RBC) instructions; and permits title insurance agents to deposit escrow, settlement, and closing funds for real estate closings, including closings involving refinances of mortgage loans, that exceed $2,500 to be in the form of a real-time or instant payment.

Utilization Review Organization Act

The bill amends the Utilization Review Organization Act to require utilization review entities to implement and maintain a prior authorization application programming interface (API), pursuant to federal law in effect on January 1, 2028, to streamline the electronic prior authorization process.

The bill requires each utilization review entity certified under the Utilization Review Organization Act to implement and maintain a prior authorization API in accordance with 45 CFR § 156.223(b), as in effect on January 1, 2028. This requirement does not apply to a prior authorization request for the coverage of drugs as defined in federal law.

These sections are part of and supplemental to the Utilization Review Organization Act and is effective on January 1, 2028.

[*Note:* The Centers for Medicare and Medicaid Services (CMS) issued a proposed rule with a January 1, 2026, implementation date for API enhancement or development. CMS considered public comments on the proposed rule regarding the need for additional time for implementation and changed the compliance date in its final rule to January 1, 2027. The compliance date for the final rule applies to Medicare Advantage organizations and state Medicaid and Children's Health Insurance Program (CHIP) fee-for-service programs (by January 1, 2027), Medicaid managed care plans and CHIP managed care entities (beginning with the first rating period that begins on or after January 1, 2027), and qualified health plans in the federally facilitated exchanges (by the first plan year beginning on or after January 1, 2017).]

Group-funded Liability Pools; Submission of Financial Statement

The bill amends provisions pertaining to certain financial reporting requirements on group-funded liability pools. The bill increases, from 150 days to 180 days, the deadline by which a group-funded liability pool must submit a certified, independent financial statement after the end of the fiscal year whenever the Commissioner of Insurance (Commissioner) deems it necessary to examine the affairs and financial condition of a pool.

Tiered-fee Structure for Financial Examinations of Insurance Companies and Societies

The bill amends law to establish a tiered-fee structure for financial examinations of insurance companies and societies based on the gross premiums received by such entities. The bill also establishes that certain examination costs be "average and reasonable."

"Average and Reasonable" Fees

The bill requires the following examination costs be "average and reasonable":

- Full compensation for examiners' services, on a per diem basis;
- Outside consulting and data processing fees necessary to perform any examination; and
- Purchase, maintenance, and enhancement of examination equipment and computer software.

The bill specifies expenses for traveling and subsistence incurred by examiners in the performance of their services be "reasonably" necessary.

The bill requires the amount paid to perform any market regulation examination, including examination of a company or society's subsidiaries, and the *pro rata* amount to fund the purchase of examination equipment and computer software be "reasonable" and not exceed the continuing statutory collective total cap of $25,000.

"Average and reasonable" means the amount or fees that are in line with fees assessed by other people in the area where the examination occurred who have rendered similar services.

Tiered-fee Structure

The bill amends the amounts paid for examination costs to create a tiered-fee structure. The examination costs include:

- Compensation, expenses, and the employer's share of the Federal Insurance Contributions Act taxes;
- The employer's contribution to the Kansas Public Employees Retirement System;
- The self-insurance assessment for the Workers Compensation Act;
- The employer's cost of the state health care benefits program;
- A *pro rata* amount determined by the Commissioner to provide vacation and sick leave for the examiner;

- All average and reasonable outside consulting and data processing fees necessary to perform any examination; and

- An average and reasonable *pro rata* amount determined by the Commissioner to fund the purchase, maintenance, and enhancement of examination equipment and computer software.

The bill specifies the amount paid for the above costs; outside consulting and data processing fees necessary to perform any financial examination at any one company or society, including examination of the company's or society's subsidiaries, or any combination; and the *pro rata* amount to fund the purchase of examination equipment and computer software may not collectively total more than the following amounts:

- $50,000 for any insurance company or society that has less than $5.0 million in gross premiums, both direct and assumed, in the preceding calendar year;

- $75,000 for any insurance company or society that has at least $5.0 million but less than $25.0 million in gross premiums, both direct and assumed, in the preceding calendar year;

- $100,000 for any insurance company or society that has at least $25.0 million but less than $50.0 million in gross premiums, both direct and assumed, in the preceding calendar year;

- $125,000 for any insurance company or society that has at least $50.0 million but less than $100.0 million in gross premiums, both direct and assumed, in the preceding calendar year;

- $175,000 for any insurance company or society that has at least $100.0 million but less than $250.0 million in gross premiums, both direct and assumed, in the preceding calendar year;

- $250,000 for any insurance company or society that has at least $250.0 million but less than $500.0 million in gross premiums, both direct and assumed, in the preceding calendar year; or

- The actual total costs paid in connection with the examination for any insurance company or society that has at least $500.0 million in gross premiums, both direct and assumed, in the preceding calendar year.

[*Note:* Former law provided the amount paid may not collectively total more than $50,000 for any insurance company or society that has less than $200.0 million or more in gross premiums, both direct and assumed, in the preceding calendar year or not more than $500,000 for any insurance company or society that has $200.0 million or more in gross premiums, both direct and assumed, in the previous calendar year.]

Risk-based Capital Instructions; Effective Date Change

The bill amends the effective date specified in the Insurance Code for the RBC instructions promulgated by the National Association of Insurance Commissioners for property and casualty companies and for life insurance companies. The bill updates the effective date of the RBC instructions from December 31, 2022, to December 31, 2023.

Real-time or Instant Payment Deposit of Real Estate Closing Funds

The bill permits title insurance agents to deposit escrow, settlement, and closing funds for real estate closings, including closings involving refinances of existing mortgage loans, that exceed $2,500 to be in the form of a real-time or instant payment through the FedNow service operated by the federal reserve banks or The Clearing House payment company's Real-Time Payments system.

Electronic Notice and Document Act

The bill amends the Electronic Notice and Document Act to allow a plan sponsor of a health benefit plan (HBP) to authorize electronic delivery of plan documents and identification cards for insured individuals covered by an HBP. The bill adds and clarifies definitions in the Electronic Notice and Document Act. The bill also repeals a statute pertaining to the consent required to send electronic notices and documents and the exceptions to such requirements.

Definitions

The bill defines the following:

- "Health benefit plan covered person" (HBPCP) means a policyholder, subscriber, enrollee, or other individual participating in an HBP;
- "Insured" means an individual who is covered by an insurance policy, including an HBP;
- "Plan sponsor" means the:
    - Employer in the case of an employee benefit plan established or maintained by a single employer;
    - Employee organization in the case of a plan established or maintained by an employee organization; or
    - Association, committee, joint board of trustees, or similar group of representatives of the parties who establish or maintain the plan in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations.

The bill clarifies that the term "party" does not include an HBPCP. [*Note:* Continuing law defines "party" as any recipient of a notice or document required as part of an insurance

transaction, including, but not limited to, an applicant, an insured, a policyholder, or an annuity contract holder.]

Consent to Electronic Delivery of Health Benefit Plan Communications

The bill allows the HBP sponsor, on behalf of HBPCPs, to provide consent to the electronic delivery of all communications related to the plan that are required by the Electronic Notice and Document Act and any health insurance identification cards. Before providing consent on behalf of an HBPCP, the bill requires a plan sponsor to confirm that the HBPCP routinely (at least once every 24 hours during the work week) uses electronic communications during the normal course of such covered person's employment.

Before the electronic delivery of any plan communications or health insurance identification cards, the HBP is required to:

- Provide the HBPCP with an opportunity to opt out of electronic delivery and to select U.S. mail as the preferred method of delivery; and

- Document satisfaction of all applicable statutory requirements regarding electronic delivery, consent, withdrawal of consent, and accessibility.

Provisions Included in Electronic Notice and Document Act

The bill makes the provisions in New Section 2 of SB 553, as passed by the Senate, regarding consent to electronic delivery of HBP communications, part of the Electronic Notice and Document Act.

Requirements for Electronic Delivery, Consent, and Withdrawal of Consent and Accessibility

The bill amends law regarding the requirements for authorized electronic delivery, storage, and presentation of notices or other required documents in an insurance transaction or that serve as evidence of insurance coverage to a party. The bill extends certain provisions to apply the following conditions for electronic delivery to both a party and an HBPCP:

- If provisions in the Electronic Notice and Document Act or applicable law expressly require verification or acknowledgment of receipt of a notice or document be provided to a party or an HBPCP, electronic delivery may be used only if the delivery method used provides verification or acknowledgment of receipt;

- The legal effectiveness, validity, or enforceability of any contract or policy of insurance executed by a party or an HBPCP may not be denied solely because of the failure to obtain electronic consent or confirmation of consent as required under New Section 1 of SB 553, as passed by the Senate, regarding the API;

- A withdrawal of consent by a party or HBPCP does not affect the legal effectiveness, validity, or enforceability of a notice or document delivered by

electronic means to the party or HBPCP before the withdrawal of consent is effective. A withdrawal of consent by a party or HBPCP is effective within a reasonable period of time after receipt of the withdrawal by the insurer; and

- If after consent to electronic delivery is given by the party, a change in the hardware or software requirements needed to access or retain a notice or document delivered electronically creates a material risk that the party will be unable to access or retain a subsequent notice or document to which the consent applies, the party or HBPCP may elect to treat an insurer's failure to provide the following statements as a withdrawal of consent:
    - The revised hardware or software requirements for access to and retention of a notice or document delivered electronically; and
    - The right of the party to withdraw consent without the imposition of any undisclosed fee, condition, or consequence.

This section of the bill does not apply to a notice or document delivered electronically by an insurer before the effective date of the Electronic Notice and Document Act to a party or HBPCP who, before that date, consented to receive a notice or document in an electronic form otherwise allowed by law.

Group-funded Workers Compensation Pools

Submission of Financial Statement

The bill amends provisions pertaining to certain financial reporting requirements on group-funded workers compensation pools and also removes a notification requirement relating to termination or cancellation of a member in a group-funded workers compensation pool.

The bill increases, from 150 days to 180 days, the deadline by which group-funded workers compensation pools must submit a certified, independent financial statement after the end of the fiscal year whenever the Commissioner deems it necessary to examine the affairs and financial condition of any pool.

Changes in Notice of Cancellation or Termination

The bill also removes a requirement on group-funded workers compensation pools to provide notice to the Commissioner of a cancellation or termination of an individual member. Pool members are required to maintain coverage for 30 days or until the canceled or terminating member procures workers compensation and employer's liability coverage.

Repealed Statutes

In addition to the statutes amended, the bill repeals KSA 40-5802, which contains the consent requirements for electronic delivery of notices and documents and the exceptions to such requirements.

Updates to the Kansas Life and Health Insurance Guaranty Association Act; HB 2787

HB 2787 amends the Kansas Life and Health Insurance Guaranty Association Act (Act) to incorporate the 2017 revisions to the National Association of Insurance Commissioners Life and Health Guaranty Association Model Act (Model Act). Among these revisions, the bill allocates long-term care insurance assessments equally between life insurance and health insurance members. The bill also includes health maintenance organizations (HMOs) as member insurers of the Kansas Life and Health Insurance Guaranty Association (Association). The bill makes technical and conforming amendments throughout to reflect the revisions to the Model Act. The bill also amends law relating to the Kansas Insurance Guaranty Association (KIGA).

Application of Provisions

The bill provides for all matters relating to the insolvency or impairment of any member insurer placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency before July 1, 2024, or for which the Association otherwise exercises its statutory powers and duties before July 1, 2024, including past, present, and future assessments and credits, to be governed by the provisions of the Act that were in effect before July 1, 2024. Such matters on or after July 1, 2024, will be governed by the provisions of the Act in effect on the date the actions are officially taken.

Purpose of the Kansas Life and Health Insurance Guaranty Association Act

The bill makes technical and conforming amendments to reflect the policies and plans included under the Act and to specify that the Association consists of member insurers.

Persons Provided Coverage; Policies and Contracts Specified

The Act does not provide coverage to a person who acquires rights to receive payments through a structured settlement factoring transaction, as defined in 26 USC § 5891(c)(3)(A), regardless of whether the transaction occurred before or after the effective date of that law.

The bill specifies that “health insurer,” as used in the Act, includes HMO subscriber contracts and certificates.

Definitions Pertaining to the Act

The bill modifies Act definitions and add definitions for terms including “extra-contractual claims” and “health benefit plan.”

The bill clarifies that “account” means any of the three accounts maintained by the Association: the health account, the life insurance account, or the annuity account.

The bill also amends the definition for “covered policy” to include “covered contract” and to mean any policy or contract for which coverage is provided under the Act.

The bill defines "extra-contractual claims" to include, for example, claims relating to bad faith in the payment of claims, punitive or exemplary damages, or attorney fees and costs.

The bill also defines "health benefit plan" to mean any hospital or medical expense policy or certificate, HMO subscriber contract, or any other similar health contract. "Health benefit plan" does not include:

- Accident-only insurance;
- Credit insurance;
- Dental-only insurance;
- Vision-only insurance;
- Medicare supplement insurance;
- Benefits for long-term care, home health care, community-based care, or any combination;
- Disability income insurance;
- Coverage for on-site medical clinics; and
- Specified disease, hospital confinement indemnity, or limited benefit health insurance if the types of coverage do not provide coordination of benefits and are provided under separate policies or certificates.

To the definition of "member insurer," the bill adds HMOs and removes organizations that have a certificate or license limited to the issuance of charitable gift annuities. The bill also adds HMOs and certificates issued by member insurers to the definition of "provider."

Kansas Life and Health Insurance Guaranty Association; Creation and Members

The bill amends the statute establishing the Association to reflect that member insurers could be licensed to conduct HMO business in Kansas.

The bill also amends the name of the health insurance account maintained by the Association to be "health account."

Kansas Life and Health Insurance Guaranty Association Board of Directors; Selection and Approval

The bill removes a provision of law regarding the selection of the initial Board of Directors (Board). The bill specifies that the term of each member appointed and serving on the Board as of July 1, 2024, will continue until the expiration of each member's current term. Upon expiration of each member's term, the Commissioner of Insurance (Commissioner) will decide

whether to continue each member's position on the Board or reduce the number of Board members.

On and after January 1, 2025, the Board will consist of no fewer than five, but no more than nine, appointed members. Members of the Board will be selected by member insurers subject to the approval of the Commissioner. Each member of the Board will be appointed for a term of three years except that members may be removable by the Commissioner for inefficiency, neglect of duty, or malfeasance.

Powers and Duties of the Kansas Life and Health Insurance Guaranty Association; Mandatory Payment of Certain Claims

The bill allows the Association to provide substitute coverage for policies and contracts covered by the Association and allows the Association to have the authority to file for rate or premium increases. The bill requires the rates for reissued or substitute policies or contracts to be at actuarially justified rates.

Insolvent Insurer—Temporary Moratorium and Moratorium Charge

If a member insurer is an insolvent insurer, continuing law authorizes the Association to take certain actions. The bill adds, in carrying out these duties, that the Association may, in the event of a temporary moratorium or moratorium change imposed by the receivership court on payment of cash values or policy loans or on any other right to withdraw funds held in conjunction with policies or contracts out of the assets of the impaired or insolvent insurer, defer the payment of cash values, policy loans, or other rights by the Association for the period of the moratorium or moratorium charge imposed by the receivership court, except for claims covered by the Association to be paid in accordance with a hardship procedure established by the liquidator or rehabilitator and approved by the receivership court.

Insolvent Insurer—Deposit Held and Benefit of Creditors

The bill provides that a deposit in Kansas, held pursuant to law or required by the Commissioner for the benefit of creditors, including policyholders or contract holders, not turned over to the domiciliary liquidator upon the entry of a final order of liquidation or order approving a rehabilitation plan of a member insurer domiciled in Kansas or in a reciprocal state, must be promptly paid to the Association. The Association is entitled to retain a portion of any amount paid equal to the percentage determined by dividing the aggregate amount of policyholders' or contract holders' claims in Kansas related to that insolvency and will remit to the domiciliary receiver the amount paid to the Association less the amount retained. Any amount paid to and retained by the Association will be treated as a distribution of estate assets pursuant to applicable state receivership law dealing with early access disbursements.

Impaired or Insolvent Insurer—Subrogation Rights; Covered Obligations and Recovery

The bill grants the Association all common-law rights of subrogation available to the impaired or insolvent insurer policyholder or contract holder, beneficiary, enrollee, or payee of a policy or contract including, without limitation, in the case of a structured settlement annuity, any rights of the owner, beneficiary, or payee of the annuity, to the extent of benefits received pursuant to the Act against a person originally or by succession responsible for the losses

arising from the personal injury relating to the annuity or payment, excepting any such person responsible solely by reason of serving as an assignee regarding a qualified assignment pursuant to 26 USC § 130.

If the preceding provisions are invalid or ineffective with respect to any person or claim for any reason, the amount payable by the Association with respect to the related covered obligations will be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies or contracts, or portion thereof, covered by the Association.

The bill also provides that, if the Association has provided benefits with respect to a covered obligation and a person recovers amounts to which the Association has rights, then the person will pay to the Association the portion of the recovery attributable to the policies or contracts, or portion thereof, covered by the Association.

The bill removes a provision of law that states the contractual obligations of the impaired or insolvent insurer for which the Association becomes, or may become, liable are as great as but no greater than the contractual obligations of the impaired or insolvent insurer would have been in the absence of an impairment of insolvency unless those obligations are reduced as permitted by the Act.

Exclusions from Coverage

To the list of policies or contracts the Association does not provide coverage for, the bill adds:

- A multiple employer welfare arrangement, as defined in 29 USC § 1144;
- A portion of a policy or contract to the extent that the assessments required by the Act with respect to the policy or contract are preempted by federal or state law;
- An obligation that does not arise under the express written terms of the policy or contract issued by the member insurer to the enrollee, certificate holder, contract holder, or policyholder, including, without limitation:
    - Claims based on marketing materials;
    - Claims based on side letters, riders, or other documents that were issued by the member insurer without meeting applicable policy or contract form filing or approval requirements;
    - Misrepresentations of or regarding policy or contract benefits;
    - Extra contractual claims; or
    - A claim for penalties or consequential or incidental damages;
- A contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan

participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee and, in each case, is not an affiliate of the member; or

- Structured settlement annuity benefits to which a payee or beneficiary has transferred the payee's or beneficiary's rights in a structured settlement factoring transaction, which, under 26 USC § 5891(c)(3)(A), means a transfer of structured settlement payment rights, including portions of structured settlement payments, made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

The bill further provides that these exclusions from coverage do not apply to any portion of a policy or contract, including a rider, that provides long-term care or any other health insurance benefits.

The bill also states that, for the purposes of the Act, benefits provided by a long-term care rider to a life insurance policy or annuity contract are considered the same type of benefits as the base life insurance policy or annuity contract to which it relates.

Powers and Duties of the Kansas Life and Health Insurance Guaranty Association

The bill adds to the powers and duties of the Association, including to:

- Exercise, for the purposes of the Act and to the extent approved by the Commissioner, the powers of an HMO;

- Organize itself as a corporation or in other legal form permitted by the laws of Kansas;

- Request information from a person seeking coverage from the Association in order to aid the Association in determining its obligations under the Act with respect to the person, and the person is required to promptly comply with the request;

- In accordance with the terms and conditions of the policy or contract, file for actuarially justified rate or premium increases for any policy or contract for which it provides coverage under the Act; and

- Take other necessary or appropriate action to discharge its duties and obligations or exercise its powers under the Act.

The bill states that at any time within 180 days of the date of the order of liquidation, the Association may elect to succeed to the rights and obligations of the ceding member insurer that relate to policies, contracts, or annuities covered, in whole or in part, by the Association, in each case under any one or more reinsurance contracts entered into by the insolvent insurer and its reinsurers and selected by the Association. Any such assumption would be effective as of the date of the order of liquidation. The election would be effected by the Association or the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA), on its behalf, sending written notice with return receipt requested to the affected reinsurers.

To facilitate the earliest practicable decision about whether to assume any of the contracts of reinsurance, and in order to protect the financial position of the estate, the receiver and each reinsurer of the ceding member insurer must make available upon request to the Association or to NOLHGA on its behalf as soon as possible after commencement of formal delinquency proceedings:

- Copies of in-force contracts of reinsurance and all related files and records relevant to the determination of whether such contracts should be assumed; and

- Notices of any defaults under the reinsurance contracts or any known event or condition that with the passage of time could become a default under the reinsurance contracts.

Reinsurance Contracts Assumed by the Kansas Life and Health Insurance Guaranty Association

The bill makes the Association responsible for all unpaid premiums due under the reinsurance contracts for periods both before and after the date of the order of liquidation and responsible for the performance of all other obligations to be performed after the date of the order of liquidation, in each case relating to policies, contracts, or annuities covered, in whole or in part, by the Association. The Association is permitted to charge policies, contracts, or annuities covered in part by the Association, through reasonable allocation methods, the costs for reinsurance in excess of the obligations of the Association, and is required to provide notice and an accounting of these charges to the liquidator.

The Association is entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods after the date of the order of liquidation and that relate to policies, contracts, or annuities covered, in whole or in part, by the Association, provided that, upon receipt of any such amounts, the Association is obliged to pay to the beneficiary under the policy, contract, or annuity on account of which the amounts were paid a portion of the amount equal to the lesser of:

- The amount received by the Association; and

- The excess of the amount received by the Association over the amount equal to the benefits paid by the Association on account of the policy, contract, or annuity less the retention of the insurer applicable to the loss or event.

The bill further specifies that, within 30 days following the Association's election (election date), the Association and each reinsurer under contracts assumed by the Association will calculate the net balance due to or from the Association under each reinsurance contract as of the election date with respect to policies, contracts, or annuities covered, in whole or in part, by the Association. This calculation gives full credit to all items paid by either the member insurer or its receiver or the reinsurer prior to the election date. The reinsurer will pay the receiver any amounts due for losses or events prior to the date of the order of liquidation, subject to any set-off for premiums unpaid for periods prior to the date, and the Association or reinsurer will pay any remaining balance due the other, in each case within five days of the completion of the aforementioned calculation. Any disputes over the amounts due to either the Association or the reinsurer will be resolved by arbitration pursuant to the terms of the affected reinsurance contracts or, if the contract contains no arbitration clause, as otherwise provided by law. If the

receiver has received any amounts due to the Association, the receiver must remit such amounts to the Association as promptly as practicable.

If the Association or receiver, on the Association's behalf, within 60 days of the election date, pays the unpaid premiums due for periods both before and after the election date that relate to policies, contracts, or annuities covered, in whole or in part, by the Association, the bill provides that the reinsurer is not entitled to terminate the reinsurance contracts for failure to pay premiums and is not entitled to set off any unpaid amounts due under other contracts or unpaid amounts due from parties other than the Association against amounts due to the Association.

During the period from the date of the order of liquidation until the election date, or, if the election date does not occur, until 180 days after the date of the order of liquidation:

- Neither the Association nor the reinsurer have any rights or obligations under reinsurance contracts that the Association has the right to assume, whether for periods before or after the date of the order of liquidation;

- The reinsurer, the receiver, and the Association will, to the extent practicable, provide each other data and records reasonably requested; and

- Provided that once the Association has elected to assume a reinsurance contract, the parties' rights and obligations are be governed by provisions of the Act.

If the Association does not elect to assume a reinsurance contract by the election date, the bill provides that the Association has no rights or obligations, in each case for periods both before and after the date of the order of liquidation, with respect to the reinsurance contract.

When policies, contracts or annuities, or covered obligations are transferred to an assuming insurer, reinsurance on the policies, contracts, or annuities may be transferred by the Association, subject to the following:

- Unless the reinsurer and the assuming insurer agree otherwise, the reinsurance contract transferred will not cover any new policies of insurance, contracts, or annuities in addition to those transferred;

- The obligations will no longer apply with respect to matters arising after the effective date of the transfer; and

- Notice will be given in writing, with return receipt requested, by the transferring party to the affected reinsurer no less than 30 days prior to the effective date of the transfer.

The bill further specifies that the provisions of this subsection regarding reinsurance contracts and proceeds supersede the provisions of any state law or any affected reinsurance contract that provides for or requires any payment of reinsurance proceeds, on account of losses or events that occur in periods after the date of the order of liquidation, to the receiver of the insolvent insurer or any other person. The receiver remains entitled to any amounts payable by the reinsurer under the reinsurance contracts with respect to losses or events that occur in periods prior to the date of the order of liquidation, subject to applicable setoff provisions.

Except as otherwise provided, the bill states that nothing in this subsection regarding reinsurance contracts and proceeds:

- Alters or modifies the terms and conditions of any reinsurance contract;
- Abrogates or limits any rights of any reinsurer to claim the reinsurer is entitled to rescind a reinsurance contract;
- Gives a policyholder, contract owner, enrollee, certificate holder, or beneficiary an independent cause of action against a reinsurer that is not otherwise set forth in the reinsurance contract;
- Limits or affects the Association's rights as a creditor of the estate against the assets of the estate; or
- Applies to reinsurance agreements covering property or casualty risks.

The Board has discretion and can exercise reasonable business judgment to determine the means by which the Association is to provide the benefits of the Act in an economical and efficient manner.

The bill provides that, where the Association has arranged or offered to provide the benefits of the Act to a covered person under a plan or arrangement that fulfills the Association's obligations under the Act, the person is not entitled to benefits from the Association in addition to or other than those provided under the plan or arrangement.

The venue in a suit against the Association arising under the Act is in Shawnee County. The Association is not required to give an appeal bond that relates to a cause of action arising under the Act.

The bill removes a provision that provides for the Association to succeed to the rights of the insolvent insurer under certain circumstances.

Assessment of Member Insurers to Provide Funds for Administration of Kansas Life and Health Insurance Guaranty Association

The bill removes a provision from law stating non-*pro rata* assessments cannot exceed $300 per member insurer in any calendar year.

The bill also exempts assessments related to long-term care insurance from provisions regarding the allocation for class B assessments. The bill provides for the amount of the class B assessment for long-term care insurance written by the impaired or insolvent insurer to be allocated according to a methodology included in the plan of operation and approved by the Commissioner. The bill requires the methodology to provide for 50 percent of the assessment to be allocated to accident and health member insurers and 50 percent to be allocated to life and annuity member insurers.

Continuing law authorizes the Association to abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the Board, payment of the assessment

endangers the ability of the member insurer to fulfill its contractual obligations. The bill adds a provision requiring, once the conditions that caused a deferral have been removed or rectified, the member insurer to pay all assessments that were deferred pursuant to a repayment plan approved by the Association.

Protest of Assessments

The bill requires a member insurer that wishes to protest all or part of an assessment to pay, when due, the full amount of the assessment as set forth in the notice provided by the Association. The payment would be available to meet Association obligations during the pending of the protest or any subsequent appeal. Payment must be accompanied by a written statement that the payment is made under protest and include a brief statement of the grounds for the protest.

Within 60 days following the payment of an assessment under protest by a member insurer, the bill requires the Association to notify the protesting member insurer, in writing, of its determination with respect to the protest unless the Association notifies the member insurer that additional time is required to resolve the issues raised by the protest.

Within 30 days after a final decision has been made, the bill requires the Association to notify the protesting member insurer in writing of that final decision. Within 60 days of receipt of notice of the final decision, the protesting member insurer may appeal the final action to the Commissioner.

As an alternative to rendering a final decision with respect to a protest based on a question regarding the assessment base, the bill authorizes the Association to refer protests to the Commissioner for a final decision, with or without a recommendation from the Association. If the protest or appeal on the assessment is upheld, the amount paid in error or excess will be returned to the member insurer. Interest on a refund due a protesting member insurer will be paid at the rate actually earned by the Association.

The Association may request information of member insurers in order to aid in the exercise of its power and member insurers are required to comply with a request.

Kansas Life and Health Insurance Guaranty Association Plan of Operation

To the list of requirements the Association must include in its plan of operation, the bill adds:

- Establishing procedures whereby a director may be removed for cause, including in the case where a member insurer director becomes an impaired or insolvent insurer; and

- Requiring the Board to establish a policy and procedures for addressing conflicts of interest.

Powers of the Commissioner of Insurance; Final Action or Order and Judicial Review

The bill specifies that any final action of the Board or the Association could be appealed to the Commissioner.

The bill removes a provision stating that, if a member company is appealing an assessment, the amount assessed is paid to the Association and available to meet Association obligations during the pending of an appeal and that if the appeal is upheld, the amount paid in error is returned to the member insurer.

The bill adds a provision stating a final action or order of the Commissioner is subject to judicial review in a court of competent jurisdiction in accordance with the laws of Kansas that apply to the actions or orders of the Commissioner.

Duties of the Commissioner of Insurance and Kansas Life and Health Insurance Guaranty Association Board of Directors for the Detection and Prevention of Impairments and Insolvencies

The bill adds detection and prevention of insolvencies to the duties of the Commissioner. It also adds to the duties of the Commissioner that the Commissioner notify the commissioners of all other states, territories of the United States, and the District of Columbia when the Commissioner revokes or suspends a certificate of authority or makes formal orders for the security of contract holders or certificate holders.

The bill removes a section of law stating the Board, upon majority vote, may request that the Commissioner order an examination of any member insurer which the Board in good faith believes may be an impaired or insolvent insurer, as well as provisions regarding notification, cost, and the release of the examination report. The bill also removes provisions directing the Board, at the conclusion of any insurer insolvency in which the Association is obligated to pay covered claims, to prepare a report to the Commissioner regarding the history and causes of such insolvency.

Liability for Unpaid Assessments of Insureds of an Impaired or Insolvent Insurer

The bill entitles the Association or other similar associations, as a creditor of the impaired or insolvent insurer, to receive a disbursement of assets out of the marshaled assets, from time to time as the assets become available to reimburse it, as a credit against contractual obligations under the Act. If the liquidator has not, within 120 days of a final determination of insolvency of a member insurer by the receivership court, made an application to the court for the approval of a proposal to disburse assets out of marshaled assets to guaranty associations having obligations because of the insolvency, then the Association may be entitled to make application to the receivership court for approval of its own proposal to disburse these assets.

Summary Documents; Disclaimer

Regarding summary documents the Association prepares describing the general purpose and limitations of the Act, the bill requires the disclaimer to include:

- The types of policies or contracts for which guaranty funds will provide coverage;

- An explanation of rights available and procedures for filing a complaint to allege a violation of any provisions of the Act; and

- Sources for information about the financial condition of insurers provided that the information is not proprietary and is subject to disclosure under Kansas public records law.

The bill also requires a member insurer to retain evidence of compliance with the requirements of the summary document for so long as the policy or contract for which the notice is given remains in effect.

Certificates of Contributions as Assets

The bill provides that a member insurer that is exempt from taxes could recoup its assessments by a surcharge on its premiums in a sum reasonably calculated to recoup the assessments over a reasonable period of time, as approved by the Commissioner. Amounts are not considered premiums for any other purpose, including the computation of gross premium tax, the medical loss ratio, or agent commission. If a member insurer collects excess surcharges, the bill requires the member insurer to remit the excess amount to the Association, and the excess amount is applied to reduce future assessments in the appropriate account.

Stay of Proceedings for Impaired or Insolvent Insurers

For all proceedings in which the impaired or insolvent insurer is a party in any court in Kansas, the bill extends the stay from 60 days to 180 days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the Association.

Repeal of Act Construction Provision

The bill repeals a section of the Act pertaining to the construction of the original Act (KSA 40-3004).

Definitions Pertaining to the Kansas Insurance Guaranty Association

The bill updates the definition of “covered claim” to include claim obligations that arose through the issuance of an insurance policy by a member insurer, which are later allocated, transferred, merged into, novated (replaced with a new contract), assumed by, or otherwise made the sole responsibility of a member or nonmember insurer if:

- The original member insurer has no remaining obligation on the policy after the transfer;

- A final order of liquidation with a finding of insolvency has been entered against the insurer that assumed the member’s coverage obligations by a court of competent jurisdiction in the insurer’s state of domicile;

- The claim would have been a covered claim if the claim had remained the responsibility of the original member insurer, and the order of liquidation had been entered against the original member insurer with the same claim submission and liquidation date; and

- In cases where the member's coverage obligations were assumed by a nonmember insurer, the transaction received prior regulatory or judicial approval.

The bill also defines the term "cybersecurity insurance," which includes, for the purposes of KIGA, first- and third-party coverage, in a policy or endorsement, written on a direct, admitted basis for losses and loss mitigation arising out of or relating to data privacy breaches, unauthorized information network security intrusions, computer viruses, ransomware, cyber extortion, identity theft, and similar exposures.

Kansas Insurance Guaranty Association Board of Directors

The bill provides for, on and after January 1, 2025, the KIGA Board of Directors (KIGA Board) to have no fewer than seven members and no more than nine members. In accordance with this provision, the bill provides for members of the KIGA Board serving as of July 1, 2024, to continue their terms until their expiration. The bill authorizes the Commissioner to decide, upon expiration of a member's term, whether to continue the member's position or reduce the total number of KIGA Board members.

The bill also establishes that members of the KIGA Board are selected by member insurers, subject to the approval of the Commissioner, and serve a term of three years, but may be removed by the Commissioner for inefficiency, neglect of duty, or malfeasance.

Cybersecurity Insurance Obligation

The bill amends language regarding the limitation of the KIGA's exposure in the event of a cybersecurity claim. The bill does not require KIGA to pay more than $300,000 for all first- and third-party claims under a policy or endorsement providing, or that is found to provide, cybersecurity insurance coverage and arising out of, or related to, a single insured event, regardless of the number of claims made or the number of claimants.

Kansas Insurance Guaranty Association Duties

The bill also authorizes KIGA to provide covered policy benefits and service as part of its duties.

Exhaustion of Rights Under an Insurance Policy

Under continuing law, a claimant filing a claim against an insurer under any provision in an insurance policy other than a policy of an insolvent insurer that is also a covered claim is required to exhaust the claimant's right under the policy. The bill adds any right under a life insurance policy as an exception to the reduction of claim process.

Additionally, the bill further clarifies that the claim may be reduced by the lesser of:

- KIGA's covered claim limit;
- The amount of the judgment on the settlement of the claim; or
- Policy limits of the insolvent insurer's policy.

Kansas Probate Code Notices, Transfer Process; SB 379

SB 379 amends provisions in the Kansas Probate Code regarding the publication notice required to be given to creditors with respect to the administration or probate of a will and for publication notice of sales of real and personal property at auction. The bill also clarifies the process by which small estates may be transferred to a successor by affidavit.

Restricted Driving Privileges for Failure to Comply With A Traffic Citation; SB 500

SB 500 amends law pertaining to restricted driving privileges for certain individuals who violate the misdemeanor offense of failure to comply with a traffic citation (failure to comply). The bill takes effect on January 1, 2025.

Failure to Comply with a Traffic Citation

Payment of Fines, Court Costs, and Penalties

Under continuing law, failure to appear in court in response to a traffic citation and pay fines and court costs associated with such citation constitutes failure to comply. Upon such failure, the individual has 30 days to appear and pay fines, court costs, and penalties before the driving privileges of the individual must be suspended.

The bill amends requirements that any such fines, court costs, or penalties be paid in full to instead require payment of an amount as ordered by the court.

Reinstatement Fees

The bill limits reinstatement fees assessed under continuing law following failure to comply to a single fee of $100, replacing the requirement that imposes a separate $100 reinstatement fee for each charge associated with the citation with which the individual did not comply, regardless of the disposition of the charge.

Forms for Waiving or Reducing Payment of Court Costs or Fines

Under continuing law, a person who is assessed a fine or court costs for a traffic citation may petition the court to waive payment, or any portion, of the fine or costs. The bill requires the clerks of the district court and municipal court to make forms available to any person seeking to make such a motion.

Waivers and Alternatives to Restriction or Suspension

The bill requires the court to consider the following options before issuing an order to restrict or suspend an individual's driving privileges:

- Waiver or reduction of fees, fines, and court costs, allowing for payment plans of such fees, fines, and costs; and

- Alternative requirements in lieu of restriction or suspension of driving privileges, including, but not limited to, alcohol or drug treatment or community service.

The bill specifies that in considering these waivers or alternatives, the court is not required to make written findings or written payment plan orders.

Offense Look-back

The bill prohibits courts or the Division of Vehicles (Division), Kansas Department of Revenue, from considering any conviction for a failure to comply that is older than five years in determinations of suspension or restriction of driving privileges. The bill requires the Division to notify suspended or restricted individuals whose driving privileges have not been restored that they may be eligible for driving privileges pursuant to this provision.

Exclusions

Continuing law excludes illegal parking, standing, or stopping as grounds for failure to comply. The bill excludes certain additional violations not pertaining to the operation of a motor vehicle from violations for which non-compliance with the terms of a citation constitute failure to comply and provides these exclusions apply retroactively.

The bill provides a person may petition the court to determine whether a previous violation for failure to comply is excluded under the provisions of the bill. If the court determines the person committed an offense that is excluded, the court must immediately electronically notify the Division. The Division is required to terminate any restriction, suspension, or suspension action that resulted from the prior violation upon receipt of the court's notification. [*Note:* Under prior law, non-compliance with any traffic citation, as defined by KSA 8-2106, excluding illegal parking, standing, or stopping, constitutes grounds for failure to comply.]

Restricted Driving Privileges

Automatic Restriction of Driving Privileges

The bill requires the Division to restrict, rather than suspend, the driving privileges of eligible individuals as described below, upon a violation of failure to comply and subsequent notification by the court.

The bill authorizes restoration of driving privileges to be provided upon an individual entering into an agreement with the court regarding the person's failure to comply.

Eligibility

Individuals are eligible for the automatic restricted driving privileges authorized under the bill, provided:

- The individual does not have more than three convictions for driving with a canceled, suspended, or revoked license; and

- The license of the individual is not suspended for reasons other than failure to comply.

The bill specifies drivers applying for restricted driving privileges in lieu of suspension under continuing law are eligible to apply for a restricted license if they have previously been approved for restricted driving privileges under the automatic granting of restricted driving privileges authorized by the bill.

Restricted Driving Privileges for Drivers with Revoked Licenses for Failure to Comply

The bill also authorizes a restricted driver's license for a person whose driving privileges have been revoked for driving while the person's driving privilege was canceled, suspended, or revoked only for failure to comply.

The bill removes, for drivers meeting the conditions for reinstatement under provisions of the bill, a mandatory three-year driver's license revocation for a driver whose license has been suspended solely for driving while the person's driving privilege was canceled, suspended, or revoked only for failure to comply.

Duration of Restrictions

The duration of restricted driving privileges varies depending on the circumstances in which restrictions are granted. For any driver granted restricted driving privileges pursuant to the bill, the Division is directed to restore driving privileges upon notice of a determination by the court that the individual has substantially complied with the terms of the traffic citation.

The bill defines "substantial compliance" to mean the person has followed the orders of the court involving payments of fines, court costs, and any penalties and has not failed substantially in making payments or satisfying the terms of the court order, and replaces existing references to "compliance" in the statute with "substantial compliance."

Otherwise, restricted driving privileges remain in effect unless otherwise rescinded, as follows:

- For drivers qualifying for automatic restriction of driving privileges prior to suspension, the lesser of:
    - 60 days from the date that the Division mails notice of restricted driving privileges; or
    - Upon the person entering into an agreement with the court regarding the person's failure to comply;

- For drivers applying for restricted driving privileges under continuing law, until the terms of the traffic citation have been substantially complied with; or

- For drivers qualifying for restricted driving privileges following license revocation, the lesser of:
    - The remainder of time the person's driving privileges are revoked; or
    - Three years from the date the restricted driving privileges were approved.

Permissible Driving Activities

The bill adds driving for the purpose of transporting children to and from school or child care, purchasing groceries or fuel, and attending religious worship services to the list of driving activities permitted when restricted driving privileges are granted for failure to comply. Permissible driving activities are the same for all circumstances in which restricted driving privileges are authorized under the bill.

Violation of Restrictions

The bill states a person operating a motor vehicle in violation of restrictions authorized under the bill is guilty of operating a vehicle in violation of restrictions, which is classified as a misdemeanor.

The bill requires the Division to rescind restricted driving privileges authorized under the bill if the person is found guilty of a violation, other than failure to comply, that results in driver's license suspension, revocation, or cancellation.

The bill also requires, for drivers qualifying for automatic restriction of driving privileges prior to suspension, the rescission of restricted driving privileges if the individual is found guilty of operating a motor vehicle in violation of restrictions, as provided for by the bill.

Termination of Parental Rights; Adoption Notice; HB 2549

HB 2549 amends law in the Kansas Adoption and Relinquishment Act (Act) governing petitions to terminate parental rights (TPR) and notice required to be given in a hearing on a petition for adoption.

Termination of Parental Rights Petitions

The bill specifies a TPR petition may be filed only as part of a petition for adoption or as a separate action in connection with the petition for adoption. Prior law provided a TPR petition could be filed as an independent action.

For TPR petitions that are filed separately from petitions for adoption, the bill specifies venue for TPR petitions must be in the county where the child or a parent resides or is found, and the order granting the petition must:

- Be in substantial compliance with the Kansas Judicial Council (Judicial Council) form;

- Be a final judgment that is appealable as a matter of right;

- Satisfy the Act requirement that the necessity for consent or relinquishment is eliminated (if the order is not appealed); and

- Be effective only upon the filing of an adoption decree.

Notice of Hearing on Adoption Petitions

The bill reorganizes and clarifies provisions related to the notice of hearing required to be given after a petition for adoption has been filed in various types of adoptions, as follows.

Independent and Stepparent Adoptions

The bill requires notice in an independent and stepparent adoption to be given to:

- The parents, presumed parents, or possible parents;
- Any person who has physical custody of the child; and
- Any legal guardian of the child.

Private Agency Adoptions

The bill requires notice in a private agency adoption to be given to:

- The consenting agency;
- The parents, the presumed parents, or possible parents;
- Any relinquishing person;
- Any person who has physical custody of the child; and
- Any legal guardian of the child.

Public Agency Adoptions

The bill requires notice in a public agency adoption to be given only to the consenting agency.

Other Amendments

The bill clarifies that a person who receives notice of a hearing on an adoption petition is not made a party or granted standing based solely on the fact that the person received such notice. The bill further specifies that notice is not required to be given to a person whose parental rights have been terminated or to a person who or agency that has waived the right to receive notice in writing.

Small Claims Threshold; HB 2604

HB 2604 amends the Small Claims Procedure Act to increase the maximum dollar amount for a small claim from $4,000 to $10,000, exclusive of interest, costs, and any damages

related to worthless checks. The bill makes a conforming amendment in a statute concerning claims exceeding the threshold. [*Note:* The small claims threshold was last increased in 2004.]

Attorney Fees for Indigent Defendants; HB 2605

HB 2605 increases the maximum hourly rate of compensation for attorneys appointed to represent indigent defendants in felony criminal cases from $80 per hour to a minimum of $120 per hour, with a maximum rate of $140 per hour.

[*Note:* Under law, the specified hourly rate only applies to private attorneys appointed by a court to perform services for an indigent person and does not include public defenders, assistant public defenders, or contract counsel. The Board of Indigents' Defense Services has operated under appropriations proviso language providing authority and funds to pay an hourly rate of $100 per hour in FY 2022 and $120 per hour in FY 2023, FY 2024, and FY 2025.]

The bill also replaces a reference to the $80 per hour rate in law that allows the chief judge of any judicial district to negotiate an hourly rate less than the maximum rate for attorneys who voluntarily accept appointments in that district with a reference to the "maximum rate."

Sedgwick County Urban Area Nuisance Abatement Act; SB 362

SB 362 removes the expiration date of July 1, 2024, on the Sedgwick County Urban Area Nuisance Abatement Act (Act).

[*Note:* The Act authorizes the Board of County Commissioners to order the removal or abatement of any nuisance from any property in the unincorporated area of Sedgwick County (County). All costs associated with the abatement are the responsibility of the property owner. Before the abatement process can begin, the Act requires the County to first obtain a conviction for a county code violation regarding the nuisance no more than 12 months before the issuance of the abatement order.

The Act does not apply to any land, structures, machinery and equipment, or vehicles used for agricultural activity as defined in continuing law to include growing or raising of horticultural and agricultural crops, hay, poultry, and livestock and the handling, storage, and transportation of agricultural commodities. The Act also excludes all real and personal property, machinery, equipment, stored grain, and agricultural input products that are owned or maintained by commercial grain elevators and agribusiness facilities.]

District Coroner; SB 381

SB 381 allows the board of county commissioners in any county that is not the most populous county in the judicial district to appoint a coroner, at the county's expense, to serve as district coroner for the county.

Riley and Crawford Counties Unincorporated Area Nuisance Abatement Acts; Emergency Medical Services; SB 384

SB 384 creates the Riley County Unincorporated Area Nuisance Abatement Act and the Crawford County Unincorporated Area Nuisance Abatement Act and amends statutes pertaining to the Emergency Medical Services Board (EMS Board).

Riley and Crawford Counties Unincorporated Area Nuisance Abatement Acts

Determination of Nuisance and Order for Abatement

The bill requires the county to have obtained a conviction for a county code violation resulting from the nuisance within the prior 12 months before any nuisance abatement process could begin. The bill authorizes the board of county commissioners (Board) to order the removal or abatement of any nuisance within the unincorporated area of the county and the demolition of any structure or the removal or abatement of any other type of nuisance. The bill requires the Board order to require the owner of the property to pay all costs associated with the abatement.

The bill authorizes the Board to make the determination of nuisance and issue an order by resolution that requires the nuisance to be removed or abated, if the Board or other agency designated by the Board files a statement in writing with the county clerk describing the

nuisance and declaring the nuisance is a menace and dangerous to the health of county residents.

The bill directs the Board to order the owner of the property to remove and abate the nuisance within no less than ten days; the bill authorizes the Board to grant extensions of time. The bill empowers the property owner to request a hearing before the Board if the request is made during the waiting period or any extension.

The bill authorizes the Board to notify the property owner of the order by various means, including by certified mail with return receipt requested, but would require notice to be given by telephone or first-class mail if the property is unoccupied and the owner is a non-resident. The bill requires all orders and notices to be served on the owner of record or, if there is more than one owner of record, then on at least one of those owners.

Abatement and Payment

If the owner fails to comply with the order, the bill authorizes the Board to order the repair or demolition of any structure and have the items described in the order removed and abated from the property. The bill requires the county to notify the owner, by certified mail with return receipt requested, of the total cost incurred for the abatement or removal and to state in the notice that payment of the cost is due and payable within 60 days of the mailing of the notice. If the payment is not paid within the 60-day period, the bill requires the cost to be assessed against the lot or parcel of land and the county clerk to certify the costs and extend the cost on the tax roll, to be collected by the county treasurer.

The bill requires the county, in determining the cost, to subtract the value of the property removed or abated and, if that value is greater than the cost incurred, pay the owner the difference. The bill authorizes the property owner to request a hearing before the Board prior to the deadline for payment of removal or abatement costs.

The bill makes any decision of the Board subject to review in accordance with the Kansas Judicial Review Act (KSA 77-601 *et seq.*).

Motor Vehicles

The bill authorizes Riley and Crawford counties to remove and abate a motor vehicle determined to be a nuisance, except when the vehicle is on public property or property that is not open to the public. The bill requires disposition of these vehicles to comply with procedures for impoundment, notice, and public auction in continuing law for vehicles abandoned on public highways or other property open to use by the public (KSA 8-1102), which include public auction. If a public auction is conducted but no responsible bid is received, the bill authorizes the county to file proof with the Division of Vehicles (Division), Kansas Department of Revenue, and requires the Division to issue a certificate of title to the vehicle to the county.

Any person whose motor vehicle is disposed of under these provisions is eligible for a refund of motor vehicle tax, with the amount to be determined as provided in continuing law.

Acts Not Applicable to Agricultural Activity or Oil and Gas Exploration and Development Activity

The bill states the Legislature declares it is the policy of Kansas to protect and encourage the production and processing of food and other agricultural products, and it is the intent of these acts to protect agricultural and agribusiness activities from public and private nuisance actions.

The bill states the acts do not apply to land, structures, machinery and equipment, or motor vehicles used for an agricultural activity or an oil or natural gas exploration and development activity. "Agricultural activity" has the meaning in continuing law applicable to protection of farmland and agricultural activities, and also includes real and personal property, machinery, equipment, stored grain, and agricultural input products owned or maintained by commercial grain elevators and agribusiness facilities.

Sunset

The acts expire on July 1, 2027.

Emergency Medical Services Board Ambulance Staffing Requirements

The bill authorizes the EMS Board to grant a permanent variance from a rule and regulation adopted to implement, enforce, or otherwise regulate provisions regarding minimal staffing on each vehicle providing emergency services. [*Note:* Prior law authorized the EMS Board to grant only temporary variances.] The bill prohibits the EMS Board from requiring an ambulance to operate with more than one person who is a paramedic, emergency medical technician, an individual licensed to practice medicine and surgery, a physician assistant, an advanced practice registered nurse, or a professional nurse when:

- The ambulance is providing an interfacility transfer;
- The transfer is from a county with population of no more than 30,000; and
- The driver of the ambulance is certified in cardiopulmonary resuscitation.

Arkansas City and Udall Library Districts; HB 2176

HB 2176 creates the Arkansas City Area Public Library District Act and the Udall Area Public Library District Act (Library Acts). These acts are identical except for references to the cities of Arkansas City and Udall and references to USD 470 (Arkansas City) and USD 463 (Udall). The bill also makes conforming amendments to a statute defining "local public libraries."

Creation of Library Districts

The Library Acts authorizes the boards of trustees of existing public libraries in the cities of Arkansas City and Udall to adopt resolutions to submit to voters the question of creating a library district and a proposed tax levy amount. The library district territory will be the territory within the boundaries of the relevant school district.

Upon a majority of qualified electors of the proposed library districts voting in favor of the proposed library district, the district will then be established and all contracts, bonds, debts, and other obligations of the existing public libraries will transfer to the new district, except for debts related to the ownership of real estate of the library, which will remain an obligation of the city.

Governance of Library Districts

Library districts under the Library Acts will be governed by seven-member boards of trustees (board or boards). Four members will be appointed by the governing body of the relevant city with one member residing outside the city, and three members living outside the city will be appointed by the relevant board of education. The bill requires board members to be residents of the relevant library district created under the Library Acts. The members will be appointed to terms of four years and will serve until successors are appointed and qualified. Members are eligible for reappointment, but cannot serve more than two consecutive terms without one year of non-service following the second consecutive term. Members will receive no compensation, but will be paid actual expenses associated with their duties.

The boards are required to annually elect a chairperson, secretary, treasurer, and other officers deemed necessary by the board. Regular meetings of the board will be set by the board, and limited special meetings may be called by the chairperson or a majority of the members of the board. The bill requires the board treasurer to provide a bond in an amount set by the board and pay out funds on orders of the board signed by the chairperson and secretary. County treasurers are required to remit funds collected for the board to the board treasurer.

Each board is required to annually adopt a budget for the library following notice and a hearing concerning the budget. The bill requires the budget to state the amount of tax to be collected which will be levied on behalf of the library district by the relevant board of education. The bill requires the tax levy to be submitted to an election upon the filing of a petition signed by at least 5.0 percent of the qualified voters in the tax district. The bill prohibits the proceeds of the tax from supporting a regional system of cooperating libraries for any subsequent calendar year.

The bill states the libraries will cease to be participating libraries in their respective library systems. The bill authorizes each library district created by the bill to submit a petition to join its respective library system as a participating library.

Operation of Libraries

The bill requires the libraries to be free for the use of residents of the respective library districts, subject to rules adopted by the board. The libraries will be permitted to charge non-residents a fee for the use of the library.

The boards will be authorized to exercise the usual powers of a corporation for public purposes. Specifically, the boards will be authorized to:

- Make appropriate rules for the administration of the library;
- Purchase or lease real estate for the library;
- Acquire library materials;
- Employ a librarian and other employees;
- Establish and maintain a traveling library;

- Contract with other libraries or municipalities;
- Receive gifts, grants, and tax proceeds; and
- Make annual reports to the State Librarian and the local board of education.

Executive Session for Drainage Districts; HB 2587

HB 2587 authorizes the board of directors of a drainage district within a county or city to meet in executive session in accordance with provisions of the Kansas Open Meetings Act.

Filling Commission Vacancies Caused by Creating New Districts; HB 2661

HB 2661 amends the process for filling county commission vacancies when the vacancies are created by an increase of commission districts.

The bill requires county commission vacancies created by the adoption of a resolution expanding the commission to be filled at the next general election. Continuing law requires no more than a simple majority of county commissioners be elected in one cycle. The bill specifies the following procedures to meet that requirement:

- If more than a simple majority of commissioners are elected at the next general election, the new commissioner districts shall be elected for two-year terms, then four year terms after; and

- If the next general election is in an odd-numbered year, the new commissioner positions shall serve either one-year or three-year terms, determined by the resolution, so as to prevent more than a simple majority from being elected in one general election.

School Sanitary Inspections—County Home Rule; HB 2754

HB 2754 allows a county to exempt itself from law requiring the local health officer to conduct an annual sanitary inspection of each school building and its grounds. Such exemption would be made pursuant to home rule powers granted to counties under county home rule law. [*Note:* Other duties of the local health officer specified in KSA 65-202 could not be exempted by a county under continuing law.]

Dentist and Dental Hygienist Compact; HB 2453

HB 2453 enacts the Dentist and Dental Hygienist Compact (Compact) to provide interstate practice privileges for dentists and dental hygienists. The bill contains uniform language and enacts the Compact in Kansas. The Compact will come into effect on the date on which the Compact statute is enacted into law in the seventh participating state. [*Note:* As of July 1, 2024, nine states have enacted the Compact: Colorado, Iowa, Kansas, Maine, Minnesota, Tennessee, Virginia, Washington, and Wisconsin. Legislation is pending in three states.]

Purpose

The purposes of the Compact are to facilitate the interstate practice of dentistry and dental hygiene and improve public access to dentistry and dental hygiene services. The Compact establishes a pathway for dentists and dental hygienists licensed in a participating state to obtain privilege to practice in other participating states where they are not licensed, while states are able to protect public health and safety through the State's authority to regulate the practice of dentistry and dental hygiene. By facilitating the sharing of licensure and disciplinary information, the Compact promotes cooperation among participating states. The Compact also facilitates the relocation of military members and their spouses who are licensed to practice dentistry or dental hygiene.

Definitions

The Compact defines various terms used throughout the Compact, including the following:

- "Compact privilege," defined as the authorization granted by a remote state to allow a licensee from a participating state to practice as a dentist or dental hygienist in a remote state; and

- "Dentist and Dental Hygienist Compact Commission" (Commission), defined as a joint government agency established by the Compact composed of each state that has enacted the Compact and a national administrative body composed of a commissioner from each state that has enacted the Compact.

State Participation in the Compact

In order to join the Compact and continue as a participating state, a state is required to enact a Compact that is not materially different from the model compact as determined in accordance with Commission rules. A state must also participate fully in the Commission's data system, fully implement background checks for applicants, and have a mechanism in place for receiving and investigating complaints about its licensees and license applicants, among other requirements. Applicants seeking Compact privilege must meet education, assessment, and licensure requirements, and participating states must have continuing professional development requirements as a condition for license renewal. Providing alternative pathways for an individual to receive an unrestricted license does not disqualify a state from participating in the Compact.

Compact Privilege Requirements

The Compact requires a licensee to do the following in order to obtain and exercise the Compact privilege:

- Have a qualifying license as a dentist or dental hygienist in a participating state;
- Be eligible for Compact privilege in any remote state in accordance with the Compact;
- Submit to an application process whenever the licensee is seeking a Compact privilege;
- Pay any applicable Commission and remote-state fees for a Compact privilege in the remote state;
- Meet any jurisprudence requirement established by a remote state in which the licensee is seeking a Compact privilege;
- Have passed a national board examination of the Joint Commission on National Dental Examinations or another examination accepted by Commission rule;
- For a dentist, have graduated from a predoctoral dental education program accredited by the Commission on Dental Accreditation, or another accrediting agency recognized by the U.S. Department of Education for the accreditation of dentistry and dental hygiene education programs, leading to the DDS or DMD degree;
- For a dental hygienist, have graduated from a dental hygiene education program accredited by the Commission on Dental Accreditation or another accrediting agency recognized by the U.S. Department of Education for the accreditation of dentistry and dental hygiene education programs;
- Have successfully completed a clinical assessment for licensure;
- Report to the Commission any adverse action taken by any non-participating state when applying for a Compact privilege and, otherwise, within 30 days after the date the adverse action is taken;
- Report to the Commission, when applying for a Compact privilege, the address of the licensee's primary residence and thereafter immediately report to the Commission any change in address of the licensee's primary residence; and
- Consent to accept service of process by mail at the licensee's primary residence on record with the Commission with respect to any action brought against the licensee by the Commission or a participating state and consent to accept service of a subpoena by mail at the licensee's primary residence on record with

the Commission with respect to any action brought on investigation conducted by the Commission or a participating state.

Compact Privilege

Licensees are required to comply with the requirements of the Compact to maintain Compact privilege in the remote state. If those requirements are met, the Compact privilege continues if the licensee maintains a qualifying license in the state through which the licensee applied for the Compact privilege and pays any applicable Compact privilege renewal fees.

A licensee providing dentistry or dental hygiene in a remote state under the Compact privilege is required to function within the scope of practice authorized by the remote state for a dentist or dental hygienist licensed in that state.

A licensee providing dentistry or dental hygiene pursuant to a Compact privilege in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, by adverse action revoke or remove a licensee's Compact privilege in the remote state for a specific period of time and impose fines or take any other necessary actions to protect the health and safety of its citizens. If a remote state imposes an adverse action against a Compact privilege that limits the Compact privilege, that adverse action applies to all Compact privileges in all remote states.

If a license in a participating state is an encumbered license, the licensee loses the Compact privilege in a remote state and is not eligible for a Compact privilege in any remote state until the license is unencumbered.

Active Military Member or Their Spouse

An active military member and their spouse are not required to pay the fee charged by the Commission for a Compact privilege. If a remote state chooses to charge a fee for a Compact privilege, it may charge a reduced fee or no fee to an active military member and their spouse for a Compact privilege.

Adverse Actions

A participating state in which a licensee is licensed has exclusive authority to impose adverse action against the qualifying license issued by that participating state. A participating state may take adverse action based on the significant investigative information of a remote state, if the participating state follows its own procedures for imposing adverse action.

Nothing in the Compact overrides a participating state's decision that participation in an alternative program may be used in lieu of adverse action and that participation remains non-public if required by the participating state's laws. Participating states must require licensees who enter any alternative program in lieu of discipline to agree not to practice pursuant to a Compact privilege in any other participating state during the term of the alternative program without prior authorization from the other participating state.

Any participating state in which a licensee is applying to practice or is practicing pursuant to a Compact privilege may investigate actual or alleged violations of the statutes and

regulations authorizing the practice of dentistry or dental hygiene in any other participating state in which the dentist or dental hygienist holds a license or Compact privilege.

A remote state has the authority to take adverse actions as set forth in the Compact against a licensee's compact privilege in the state, issue subpoenas for hearings and investigations, and, if otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

A participating state may jointly investigate licensees with other participating states. Participating states must share any significant investigative information, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

After a licensee's Compact privilege in a remote state is terminated, the remote state may continue an investigation of the licensee that began when the licensee had a Compact privilege in that remote state.

Establishment and Operation of the Commission

Under the Compact, participating states create and establish a joint government agency whose membership consists of all participating states that have enacted the Compact. The Commission is an instrumentality of the participating states acting jointly and not an instrumentality of any one state. The Commission will come into existence on or after the effective date of Compact.

Each participating state may have and be limited to one commissioner selected by that state's licensing authority or, if the state has more one state licensing authority, selected collectively by the state licensing authorities. Each commissioner will be entitled to one vote on all matters voted upon by the Commission.

The Commission will, by rule or bylaw, establish a term of office for commissioners and could establish term limits. The Commission may recommend to a state licensing authority or authorities, as applicable, removal or suspension of an individual as the state's commissioner. A participating state's state licensing authority or authorities, as applicable, must fill any vacancy of its commissioner on the Commission within 60 days after the vacancy.

The Commission will meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The Commission may meet by telecommunication, video conference, or other similar electronic means.

Commission Powers

Among its powers, the Commission will be able to establish a code of conduct and conflict of interest policies, adopt rules and bylaws, meet and take actions consistent with the provisions of the Compact and the Commission's rules and bylaws, initiate and conclude legal proceedings or actions in the name of the Commission, establish a budget and make expenditures, and perform other functions as may be necessary or appropriate to achieve the purposes of the Compact.

Meeting Notice

All meetings of the Commission not closed pursuant to the Compact will be open to the public. Notice of public meetings must be posted on the Commission's website at least 30 days prior to the public meeting and include the time, date, and location of the meeting and, if the meeting is to be held or accessible via telecommunication, video conference, or other electronic means, the notice will include the mechanism for access to the meeting through those means.

Notwithstanding the above, the Commission may convene an emergency public meeting by providing at least 24 hours' prior notice on the Commission's website and any other means as provided in the Commission's rules. Emergency meetings are permissible in order to meet an imminent threat to public health, safety, or welfare; prevent a loss of Commission or participating state funds; meet a deadline for the promulgation of a rule that is established by federal law or rule; or protect public health and safety. The Commission's legal counsel must certify that one of the reasons justifying an emergency public meeting has been met.

Closed Meetings

The Commission may convene in a closed, non-public meeting for the Commission to receive legal advice to discuss non-compliance of a participating state with its obligations under the Compact; the employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures; current, threatened, or reasonably anticipated litigation; and negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate, among other matters including those promulgated by the Commission by rule.

If a meeting, or portion of a meeting, is closed, the presiding officer must state the meeting will be closed and reference each relevant exempting provision, and this reference must be recorded in the minutes.

The Commission is required to keep minutes that fully and clearly describe all matters discussed in a meeting and provide a full and accurate summary of actions taken and a description of the views expressed. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

Commission Finances

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

The Commission may levy on and collect an annual assessment from each participating state and impose fees on licensees of participating states when a Compact privilege is granted to cover the cost of the operations and activities of the Commission and its staff, which will be in a total amount sufficient to cover its annual budget as approved each fiscal year for which sufficient revenue is not provided by other sources. The aggregate annual assessment amount

for participating states will be allocated based upon a formula that the Commission promulgates by rule.

The Commission cannot incur obligations of any kind prior to securing the funds adequate to meet the same nor can the Commission pledge the credit of any participating state except by and with the authority of the participating state.

The Commission must keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission will be subject to the financial review and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission will be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review will be included in and become part of the annual report of the Commission.

Executive Board

The Executive Board has the power to act on behalf of the Commission according to the terms of the Compact. The powers, duties, and responsibilities of the Executive Board include overseeing the day-to-day activities of the administration of the Compact, including compliance with the provisions of the Compact, the Commission's rules, and bylaws; ensuring Compact administration services are appropriately provided; and preparing and recommending the budget and maintaining financial records on behalf of the Commission, among other duties as provided in the rules and bylaws of the Commission.

Executive Board Membership

The Executive Board will be composed of up to seven members. The chairperson, vice-chairperson, secretary, and treasurer of the Commission and any other members of the Commission who serve on the Executive Board will be voting members of the Executive Board. Other than the chairperson, vice chairperson, secretary, and treasurer, the Commission may elect up to three voting members from the current membership of the Commission.

The Commission may remove any member of the Executive Board as provided in the Commission's bylaws.

Executive Board Meetings

The Executive Board must meet at least annually.

An Executive Board meeting at which it takes or intends to take formal action on a matter must be open to the public, except the Executive Board may meet in a closed, non-public session of a public meeting when dealing with non-compliance of a participating state with its obligations under the Compact; matters related to the Commission's internal personnel practices and procedures; current, threatened, or reasonably anticipated litigation; and negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate, among other matters, including those promulgated by the Commission by rule.

The Executive Board must provide five business days' notice of its public meetings, published on its website and, as it may otherwise determine, to provide notice to persons with an interest in the public matters the Executive Board intends to address at those meetings.

The Executive Board may hold an emergency meeting when acting for the Commission to meet an imminent threat to public health, safety, or welfare; prevent a loss of Commission or participating state funds; or protect public health and safety.

Commission Liability and Protections

The members, officers, executive director, employees, and representatives of the Commission are immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties, or responsibilities. Nothing in this section may be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person. The procurement of insurance of any type by the Commission does not in any way compromise or limit this immunity.

The Commission will defend any member, officer, executive director, employee, and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as determined by the Commission the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing in this paragraph may be construed to prohibit that person from retaining their own counsel at their own expense, and provided further, the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct.

Should any member, officer, executive director, employee, or representative of the Commission be held liable for the amount of any settlement or judgment arising out of any actual or alleged act, error, or omission that occurred within the scope of that individual's employment, duties, or responsibilities for the Commission, the Commission will indemnify and hold harmless the individual, provided the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of the individual.

Nothing in these provisions regarding liability may be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which is governed solely by any other applicable state laws.

Nothing in the Compact may be interpreted to waive or otherwise abrogate a participating state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or anti-competitive law or regulation.

Nothing in the Compact may be construed to be a waiver of sovereign immunity by the participating states or by the Commission.

Data System

The Commission is required to provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, adverse action, and the presence of significant investigative information on all licensees and applicants for a license in participating states.

The bill requires, notwithstanding any provision of state law to the contrary, a participating state to submit a uniform data set to the data system on all individuals to whom the Compact is applicable, as required by the rules of the Commission, including identifying information, licensure data, and adverse actions, among other information that may facilitate the administration of the Compact or the protection of the public, as determined by the rules of the Commission.

Records and information provided to a participating state pursuant to the Compact through the data system constitute the authenticated business records of the Commission and are entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a participating state. Significant investigative information pertaining to a licensee in any participating state is only available to other participating states.

Participating states are responsible for monitoring the database to determine whether adverse action has been taken against a licensee or license applicant. Adverse action information pertaining to a license or license applicant in any participating state will be available to any other participating state. Participating states may designate information that may not be shared with the public without the express permission of the contributing state. Any information submitted to the data system and subsequently expunged pursuant to federal law or the laws of the participating state must be removed from the data system.

Rulemaking

The Commission must promulgate reasonable rules in order to effectively and efficiently implement and administer the Compact. A Commission rule would be invalid and have no force or effect only if a court of competent jurisdiction holds the rule is invalid because the Commission exercised its rulemaking authority in a manner beyond the scope and purposes of the Compact or based on another applicable standard of review.

The rules of the Commission have the force of law in each participating state unless the rules conflict with the laws of the participating state that establish the participating state's scope of practice, as held by a court of competent jurisdiction; the rules of the Commission are ineffective in that state to the extent of the conflict.

The Commission may exercise its rulemaking powers pursuant to the Compact and the rules adopted thereunder. Rules become binding as of the date specified by the Commission for each rule.

If a majority of legislatures of the participating states reject a Commission rule or portion of a Commission rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, within four years of the date of adoption of the rule, then the rule would have no further force and effect in any participating state or to any state applying to participate in the Compact.

Rules will be adopted at regular or special meetings of the Commission. Prior to adoption of a proposed rule, the Commission must hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.

Notice of Public Hearing

At least 30 days in advance of the meeting at which the Commission will hold a public hearing on the proposed rule, the Commission must provide a notice of proposed rulemaking on the website of the Commission or other publicly available platform, to persons who have requested notice of the Commission's notices of proposed rulemaking, and in other ways as the Commission may specify by rule.

Notices of proposed rulemaking must include the times, dates, and locations of the meetings at which the Commission will hear public comments, consider, and vote on proposed rules. If a hearing is held via telecommunication, video conference, or other electronic means, the Commission must include the mechanism for access to the hearing in the notice of proposed rulemaking. A notice of proposed rulemaking must also include the text of the proposed rule and the reason for it, a request for comments on the proposed rule, and the manner in which interested persons may submit written comments.

Public Hearings on Rules

All hearings must be recorded. A copy of the recording and all written comments and documents received by the Commission in response to the proposed rule will be available to the public. Nothing in the Compact may be construed as requiring a separate hearing on each Commission rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

The Commission will, by majority vote of all commissioners, take final action on the proposed rule based on the rulemaking record and may adopt changes to the proposed rule if the changes do not enlarge the original purpose of the proposed rule. The Commission must provide an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.

The Commission must also determine a reasonable effective date for the rule. Except for an emergency, the effective date of the rule may be no sooner than 30 days after the Commission issuing the notice that it adopted or amended the rule.

Emergency Rulemaking

Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule with 24 hours' notice, with opportunity to comment, and the usual rulemaking procedures provided in the Compact will be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this subsection, an emergency rule must be adopted immediately in order to meet an imminent threat to public health, safety, or welfare; prevent a loss of Commission or participating state funds; meet a deadline for the promulgation of a rule that is established by federal law or rule; or protect public health and safety.

The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule for purposes of non-substantive errors. Public notice of any revisions must be posted on the website of the Commission. The revision is subject to challenge by any person for a period of 30 days after posting. The revision could be challenged only on grounds the revision results in a material change to a rule. A challenge must be made in writing and delivered to the Commission prior to the end of the notice period. If no challenge is made, the revision may take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

No participating state's rulemaking requirements apply under the Compact.

Oversight, Dispute Resolution, and Enforcement

The Compact requires the executive and judicial branches of state government in each participating state to enforce the Compact and take all actions necessary and appropriate to implement the Compact.

Defaulting States

If the Commission determines that a participating state has defaulted in the performance of its obligations or responsibilities under the Compact or the promulgated rules, the Commission must provide written notice to the defaulting state. The notice of default must describe the default, the proposed means of curing the default, and any other action the Commission could take and must offer training and specific technical assistance regarding the default. The Commission must provide a copy of the notice of default to the other participating states.

If a state in default fails to cure the default, the defaulting state will be terminated from the Compact upon an affirmative vote of a majority of the commissioners, and all rights, privileges, and benefits conferred on that state by the Compact will be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

Termination of participation in the Compact may be imposed only after all other means of securing compliance are exhausted. Notice of intent to suspend or terminate must be given by the Commission to the governor; the majority and minority leaders of the defaulting state's legislature; the defaulting state's state licensing authority or authorities, as applicable; and each of the participating states' state licensing authority or authorities, as applicable.

A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

Upon the termination of a state's participation in the Compact, that state must immediately provide notice to all licensees of the state, including licensees of other participating states issued a Compact privilege to practice within that state of termination. The terminated state must continue to recognize all Compact privileges then in effect in that state for a minimum of 180 days after the date of said notice of termination.

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

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

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

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

By majority vote, the Commission may initiate legal action against a participating state in default in the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party will be awarded all costs of litigation, including reasonable attorney fees. The remedies included in this section are not the exclusive remedies of the Commission, and the Commission may pursue any other remedies available under federal or the defaulting participating state's law.

A participating state may initiate legal action against the Commission in the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party will be awarded all costs of litigation, including reasonable attorney fees.

No individual or entity other than a participating state may enforce this Compact against the Commission.

Effective Date, Withdrawal, and Amendment

The Compact will come into effect on the date on which the Compact statute is enacted into law in the seventh participating state.

On or after the effective date of the Compact, the Commission will convene and review the enactment of each of the states that enacted the Compact prior to the Commission convening, the charter participating states, to determine if the statute enacted by each charter participating state is materially different than the model Compact.

A charter participating state whose enactment is found to be materially different from the model Compact is entitled to the default process described in provisions regarding oversight, dispute resolution, and enforcement (Section 10 of the Compact).

If any participating state is later found to be in default, or is terminated or withdraws from the Compact, the Commission will remain in existence, and the Compact will remain in effect even if the number of participating states is fewer than seven.

Participating states enacting the Compact after the charter participating states are subject to evaluation by the Commission to determine if their enactments are materially different from the model Compact and whether they qualify for participation in the Compact.

All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the Commission coming into existence are actions of the Commission unless specifically repudiated by the Commission.

Any state that joins the Compact after the Commission's initial adoption of the rules and bylaws will be subject to the Commission's rules and bylaws as they exist on the date on which the Compact becomes law in that state. Any rules previously adopted by the Commission will have the full force and effect of law on the day the Compact becomes law in that state.

State Withdrawal

Any participating state may withdraw from the Compact by enacting a statute repealing that state's enactment of the Compact. A participating state's withdrawal would not take effect until 180 days after enactment of the repealing statute. Upon the enactment of a statute withdrawing from this Compact, the state must immediately provide notice of withdrawal to all licensees within that state and continue to recognize all Compact privileges to practice for a minimum of 180 days.

Withdrawal does not affect the continuing requirement of the withdrawing state's licensing authority or authorities to comply with the investigative and adverse action reporting requirements of this Compact prior to the effective date of withdrawal.

This Compact is amendable by the participating states. No amendment to the Compact may become effective and binding upon any participating state until it is enacted into the laws of all participating states.

Construction and Severability

The Compact and the Commission's rulemaking authority is liberally construed. Provisions of the Compact expressly authorizing or requiring the promulgation of rules are not construed to limit the Commission's rulemaking authority solely for those purposes.

The provisions of this Compact are severable, and if any phrase, clause, sentence, or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any participating state, a state seeking participation in the Compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other government, agency, person, or circumstance is not affected by such holding.

The Commission may deny a state's participation in the Compact or terminate a participating state if it determines a constitutional requirement of a participating state is a material departure from the Compact. If the Compact is held to be contrary to the constitution of any participating state, the Compact would remain in full force and effect as to the remaining participating states and in full force and effect as to the participating state affected as to all severable matters.

Consistent Effect and Conflict with Other State Laws

Nothing within the Compact may prevent or inhibit the enforcement of any other law of a participating state that is not consistent with the Compact. Laws, statutes, regulations, and other legal requirements in a participating state in conflict with the Compact are superseded to the extent of the conflict. Permissible agreements between the Commission and participating states are binding.

Social Work Licensure Compact; HB 2484

HB 2484 establishes the Social Work Licensure Compact (Compact) to facilitate interstate practice of regulated social workers. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure, adds a background check procedure for the Social Work Licensure Act, and adds a fee relating to the multi-state licenses under the Compact.

[*Note*: Seven states were needed to enact the legislation for the Compact to become active. That threshold was met as of April 12, 2024, when Kansas enacted the Compact. The implementation process for the Compact will begin and is estimated to take 18-24 months. Once the Compact Commission and Compact Data Systems are established, social workers will then be able to apply for a multistate license. It is estimated that the multistate license applications will open to social workers in the Fall 2025.]

The Compact's uniform provisions are detailed below.

Purpose

The purpose of the Compact is to facilitate interstate practice of regulated social workers with the goal of improving public access to competent social work services. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

The Compact's objectives include:

- Increasing public access to social work services;
- Reducing overly burdensome and duplicative requirements associated with holding multiple licenses;
- Enhancing the member states' ability to protect the public's health and safety;

- Encouraging the cooperation of member states in regulating multistate practice;

- Promoting mobility and addressing workforce shortages by eliminating the necessity for licenses in multiple states through the mutual recognition of other member state licenses;

- Supporting military families;

- Facilitating the exchange of licensure and disciplinary information among member states;

- Authorizing all member states to hold a regulated social worker accountable for abiding by a member state's laws, regulations, and applicable professional standards in the member state where the client is located at the time care is rendered; and

- Allowing for the use of telehealth to facilitate increased access to regulated social work services.

Definitions

The Compact defines various terms used throughout the Compact, including:

- "Compact Commission" (Commission) means the government agency whose membership consists of all states that have enacted the Compact, known as the Social Work Licensure Compact Commission, and that operates as an instrumentality of the member states;

- "Multistate authorization to practice" means a legally authorized privilege to practice, which is equivalent to a license, associated with a multistate license permitting the practice of social work in a remote state;

- "Multistate license" means a license to practice as a regulated social worker issued by a home state licensing authority that authorizes the regulated social worker to practice in all member states under multistate authorization to practice;

- "Regulated social worker" means any clinical, master's or bachelor's social worker licensed by a member state regardless of the title used by that member state; and

- "Social Work" or "social work services" means the application of social work theory, knowledge, methods, and ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities through the care and services provided by a regulated social worker as set forth in the member state's statutes and regulations in the state where the services are being provided.

State Participation in the Compact

Participation in the Compact requires a state to currently:

- License and regulate the practice of social work at either the clinical, master's, or bachelor's category;
- Require applicants for licensure to graduate from a program that is:
    - Operated by a college or university recognized by the licensing authority; or
    - Accredited, or in candidacy by an institution that subsequently becomes accredited, by either the Council for Higher Education Accreditation, or its successor; or the U.S. Department of Education; and
    - Corresponds to the licensure sought as required by the Compact;
- Require applicants for clinical licensure to complete a period of supervised practice; and
- Have a mechanism in place for receiving, investigating, and adjudicating complaints about licensees.

To maintain membership, member states participating in the Compact will be required to:

- Require applicants for a multistate license pass a qualifying national exam for the corresponding category of multistate license as required by the Compact;
- Participate fully in the Commission’s data system, including using the Commission’s unique identifier;
- Notify the Commission of any adverse action or the availability of investigative information regarding a licensee;
- Implement procedures for considering the criminal history records of applicants for a multistate license, including the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant’s criminal history record information from the Federal Bureau of Investigation (FBI) and the agency responsible for retaining that state’s criminal records;
- Comply with the rules of the Commission;
- Require an applicant to obtain or retain a license in the home state and meet the home state’s qualifications for licensure or renewal of licensure as well as all other applicable state laws;

- Authorize a licensee holding a multistate license in any member state to practice in accordance with the terms of the Compact and rules of the Commission; and

- Designate a delegate to participate in the Commission meetings.

The Compact requires each state to designate the categories of social work licensure that are eligible for issuance of a multistate license for applicants in that member state. When a member state does not meet the requirements for participation in the Compact at any particular category of social work licensure, such member state may choose, but is not obligated to, issue a multistate license to applicants that otherwise meet the requirements of the Compact for issuance of a multistate license in such category or categories of licensure.

The Compact provides for the state to charge a fee for granting the privilege to practice.

Social Worker Participation in the Compact

Any Multistate License

An applicant for any multistate license under the Compact's terms will be required to meet the following requirements:

- Hold or be eligible for an active, unencumbered license in the home state;

- Pay any applicable fees, including any state fee, for the multistate license;

- Submit, in connection with an application for a multistate license, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the FBI and the agency responsible for retaining that state's criminal records;

- Notify the home state of any adverse action, encumbrance, or restriction on any professional license taken by any member state or nonmember state within 30 days after the date the action is taken;

- Meet any continuing competence requirements established by the home state; and

- Abide by the laws, regulations, and applicable standards in the member state where the client is located at the time care is rendered.

Clinical Multistate License

An applicant for a clinical-category multistate license under the Compact's terms will be required to meet the following requirements:

- Fulfill a competency requirement by one of the following:

  - Passage of a clinical-category qualifying national exam;
  - Licensure of the applicant in their home state at the clinical category, beginning prior to the requirement of a qualifying national exam by the home state and accompanied by a period of continuous social work licensure; or
  - The substantial equivalency of the competency requirements set by Commission rule;

- Attainment of at least a master's degree in social work from a program that meets the requirements of the Compact; and

- Fulfill a practice requirement, by demonstrating completion of:
  - A period of postgraduate supervised clinical practice equal to a minimum of 3,000 hours;
  - A minimum of two years of full-time postgraduate supervised clinical practice; or
  - The substantial equivalency of the foregoing practice requirements as determined by the Commission.

Master's Multistate License

An applicant for a master's-category multistate license under the Compact's terms will be required to meet the following requirements:

- Fulfill a competency requirement by completing one of the following:
  - Passage of a master's-category qualifying national exam;
  - Licensure of the applicant in their home state at the master's category, beginning prior to the requirement of a qualifying national exam by the home state at the master's category and accompanied by a continuous period of social work licensure thereafter; or
  - The substantial equivalency of the competency requirements set by the Commission; and

- Attainment of at least a master's degree in social work from a program that meets the requirements of the Compact.

Bachelor's Multistate License

An applicant for a bachelor's-category multistate license under the Compact's terms will be required to meet the following requirements:

- Fulfill a competency requirement by completing one of the following:

  - Passage of a bachelor's-category qualifying national exam;
  - Licensure of the applicant in their home state at the bachelor's category, beginning prior to the requirement of a qualifying national exam by the home state and accompanied by a period of continuous social work licensure thereafter, or
  - Substantial equivalency of the competency requirements set by the Commission; and

- Attainment of at least a bachelor's degree in social work from a program that meets the requirements of the Compact.

License Renewal

Under the Compact, a licensee providing social work under the privilege to practice will be required to adhere to the license renewal requirements of the home state as well as the Compact's requirements for the license.

Adherence to Remote State Laws and Regulations

Under the Compact, a licensee providing social work under the privilege to practice will be required to adhere to the laws and regulations of the remote state and be subject to that state's regulatory authority. In accordance with due process and the state's laws, the remote state will be able to remove a licensee's privilege to practice in the remote state for a specific period of time, impose fines, or take other necessary actions to protect the health and safety of its citizens.

Multistate License Encumbrance

If a licensee's multistate license is encumbered, the Compact will require the licensee to lose their privilege to practice in any remote state until the multistate license is no longer encumbered. If a licensee's multistate license is encumbered in a remote state, the Compact states the licensee's authorization to practice could be deactivated in the remote state until the multistate license is no longer encumbered.

Issuance of a Multistate License

The Compact provides for the home state to determine the applicant's eligibility for a multistate license. If the home state determines the applicant is eligible for a multistate license, the home state issues the multistate license and designates the category of license (bachelor's, master's, or clinical).

The Compact requires member states to recognize the license to practice social work in their state at the category designated on the license by the home state.

Authority of Interstate Compact Commission and Member State Licensing Authorities

The Compact clarifies neither the Compact nor any rule of the Commission related to the Compact will be able to:

- Be construed to limit, restrict, or in any way reduce the ability of a member state to enact and enforce laws, regulations, or other rules related to the practice of social work in that state, where those laws, regulations, or other rules are not inconsistent with the provisions of this Compact;

- Affect the requirements established by a member state for the issuance of a single-state license;

- Be construed to limit, restrict, or in any way reduce the ability of a member state to take adverse action against a licensee's single-state license to practice social work in that state;

- Be construed to limit, restrict, or in any way reduce the ability of a remote state to take adverse action against a licensee's multistate authorization to practice in that state; or

- Be construed to limit, restrict, or in any way reduce the ability of a licensee's home state to take adverse action against a licensee's multistate license based upon information provided by a remote state.

Reissuance of a Multistate License by a New Home State

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

Upon receiving an application for a new home state license, the new home state will be required to verify that the current multistate license is active, unencumbered, and eligible for reissuance under the terms of the Compact and rules of the Commission. The multistate license issued by the former home state will be deactivated and all member states will be notified.

The Compact requires the new home state, prior to reissuing, to conduct the procedures regarding consideration of the criminal history records for the licensee, which may include the submission of fingerprints or other biometric-based information by the applicant.

The Compact permits the new home state to require completion of jurisprudence requirements if they are required for initial licensure in the new home state. If the licensee cannot meet the criteria of reissuance of a multistate license, the new home state will be allowed to apply its requirements for issuing a new single-state license.

The Compact also provides that for a regulated social worker who changes primary state of residence by moving from a member state to a non-member state or from a non-member

state to a member state, the state requirements apply for issuance of a single-state license in the new state.

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

Military Families

The Compact requires an active duty military member or their spouse to designate a home state where the individual has a multistate license. The individual will be able to retain the home state designation during the period the service member is on active duty.

Adverse Actions

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

The Compact allows only the home state to take adverse action against a regulated social worker's multistate license issued by the home state.

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

The Compact requires the home state to complete any pending investigations of a regulated social worker who changes primary state of residence during the course of the investigations. The home state will have the authority to take appropriate action and promptly report the conclusions of the investigation to the administrator of the data system. The administrator of the data system will be required to promptly notify the home state of any adverse actions.

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

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

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

worker will be required to include a statement that the regulated social worker's authorization to practice is deactivated in all member states while awaiting settlement of the order.

If a member state takes adverse action, it will be required to promptly notify the administrator of the data system, who will be required to promptly notify the home state of any adverse actions by remote states. Nothing in the Compact overrides a member state's decision that participation in an alternative program may be used in lieu of adverse action.

Nothing in the Compact authorizes a member state to demand the issuance of subpoenas for witnesses or production of evidence from another member state for lawful actions within that member state.

Nothing in the Compact authorizes a member state to impose disciplinary action against a regulated social worker who holds a multistate authorization to practice for lawful actions within another member state.

Establishment of Social Work Licensure Compact Commission

The Compact provides for the creation of a joint government agency to be formally identified as the Social Work Licensure Compact Commission (Commission). The Commission will be composed of all states that have adopted the Compact. The Commission will come into effect after seven states have adopted the Compact. [*Note:* Missouri, South Dakota, Washington, Utah, Kentucky, Virginia, and Kansas are the seven states that have enacted the Compact.]

Membership, Voting, and Meetings

The Compact requires each member state to have a limit of one delegate selected by the member state's licensing board. The delegate will be either a current member of the licensing board at the time of appointment, who is a regulated social worker or public member of the state licensing authority, or an administrator of the licensing board or their designee.

The Compact requires the Commission to establish by rule a term of office. The Commission could also establish term limits for delegates. Any delegate could be recommended to be removed or suspended from office by the Commission. The member state licensing board will be required to fill any vacancy occurring on the Commission within 60 days.

Each delegate will be entitled to one vote with regard to all matters before the Commission requiring a vote. Delegates will be required to vote in person or other means as provided in the bylaws, which could include telephone, videoconference, or other means of communication.

The Compact requires the Commission to meet at least once during each calendar year; additional meetings will be held as set forth in the bylaws. The Commission will be able to meet by telecommunication, videoconference, or other similar electronic means.

Powers of the Commission

The Compact provides the following powers for the Commission:

- Establish the fiscal year of the Commission;
- Establish a code of conduct and conflict of interest policies;
- Establish and amend rules and bylaws;
- Maintain its financial records in accordance with the bylaws;
- Meet and take actions consistent with the provisions of the Compact, the Commission's rules, and bylaws;
- Initiate and conclude legal proceedings or actions in the name of the Commission, provided that the standing of any state licensing board to sue or be sued under applicable law would not be affected;
- Maintain and certify records and information provided to a member state as the authenticated business records of the Commission, and designating an agent to do so on the Commission's behalf;
- Purchase and maintain insurance and bonds;
- Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;
- Conduct an annual financial review;
- Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
- Assess and collect fees;
- Accept and receive, utilize, and dispose of any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, provided that at all times the Commission would avoid any appearance of impropriety or conflict of interest;
- Lease, purchase, retain, own, hold, improve, or use any undivided interest in any real, personal, or mixed property;
- Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any real, personal, or mixed property;
- Establish a budget and make expenditures;

- Borrow money;

- Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, consumer representatives, and such other interested persons as may be designated in the Compact and its bylaws;

- Provide and receive information from and cooperate with law enforcement agencies;

- Establish and elect an Executive Committee, including a chairperson and vice-chairperson;

- Determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the Compact; and

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

Executive Committee Powers

The Compact provides for the Executive Committee to have the power to act on behalf of the Commission within the terms of the Compact. The Compact provides for the Executive Committee to have the following duties and responsibilities:

- Oversee the day-to-day activities of the administration of the Compact, including enforcement and compliance with the provisions of the Compact, its rules and bylaws, and other such duties as deemed necessary;

- Recommend to the Commission changes to the rules or bylaws, changes to the Compact legislation, fees charged to Compact member states, fees charged to licensees, and other fees;

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

- Prepare and recommend the budget;

- Maintain financial records on behalf of the Commission;

- Monitor Compact compliance of member states and provide compliance reports to the Commission;

- Establish additional committees as necessary;

- Exercise the powers and duties of the Commission during the interim between Commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the Commission by rule or bylaw; and

- Other duties as provided in rules or bylaws.

Executive Committee Membership

The Executive Committee will be composed of 11 members, including:

- The chairperson and vice-chairperson of the Commission, to be voting members of the Executive Committee;

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

- Up to four nonvoting members from four recognized national social work organizations, selected by their respective organizations.

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

Meetings of the Commission and Executive Committee

The Executive Committee will be required to meet at least annually. The Compact requires all Executive Committee meetings to be open to the public, and public notice of meetings will be required seven days in advance of the meeting date with notification provided on the website of the Commission and as determined by the Commission to provide notice to persons with an interest in the business of the Commission.

The Compact permits the Commission to hold special meetings to conduct emergency business. Public notice will be required 48 hours in advance to all Commissioners on the Commission's website and notice as provided by the Commission's rules. The Commission's legal counsel will certify that the need for the meeting qualifies as an emergency.

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

- Non-compliance of a member state with its obligations under the Compact;

- The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees;

- Current or threatened discipline of a licensee by the Commission or by a member state's licensing authority;

- Current, threatened, or reasonably anticipated litigation;
- Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
- Accusing any person of a crime or formally censuring any person;
- Trade secrets or commercial or financial information that is privileged or confidential;
- Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- Investigative records compiled for law enforcement purposes;
- Information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact;
- Matters specifically exempted from disclosure by federal or member state law; or
- Other matters as promulgated by the Commission by rule.

If a meeting or portion of a meeting will be closed, the Commission's Presiding Officer will state that the meeting be closed and will reference each relevant exempting provision. References will be recorded in the minutes.

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

The Commission will also be required to adopt and provide and annual report to the member states.

Financing of the Commission

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

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

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

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

Qualified Immunity, Defense, and Indemnification

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

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

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

Nothing in the Compact will be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which will be governed solely by any other applicable state laws.

Nothing in the Compact will be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation. [*Note:* The Sherman Act and Clayton Act are federal antitrust laws.]

Nothing in this Compact will be construed to be a waiver of sovereign immunity by the member states or by the Commission.

Data System

The bill requires the Commission to provide for the development, maintenance, operation, and utilization of a coordinated data system on all applicants for a multistate license in member states.

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

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

The Compact provides that the records and information provided to a member state pursuant to the Compact or through the data system, when certified by the Commission or an agent of the Commission, will constitute the authenticated business records of the Commission and will be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a member state.

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

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

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

Rulemaking

The Compact requires the Commission to promulgate reasonable rules to effectively and efficiently implement and administer the purposes and provisions of the Compact. In the event the Commission exceeds its rulemaking authority, as determined by a court of competent jurisdiction, beyond the scope and purposes of the Compact, those rules by the Commission will be invalid.

The rules of the Commission have the force of law in each member state, except that where the rules of the Commission conflict with the laws of the member state that establish the member state's laws, regulations, and applicable standards that govern the practice of social work as held by a court of competent jurisdiction, the rules of the Commission will be ineffective in that state to the extent of the conflict.

The Compact provides for the Commission to exercise its rulemaking powers. Rules will become binding on the day following adoption or the date specified in the rule or amendment, whichever is later.

The Compact provides for a majority of member state legislatures to reject a rule by enactment of a statute or resolution within four years of the date of adoption of the rule. Such rule would have no further force or effect in any member state. Rules or amendments to rules will be required to be adopted at a regular or special meeting of the Commission.

Public Hearings

The Compact requires the Commission to hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments prior to adoption of a proposed rule. The Commission will also be required to provide notice of the proposed rule at least 30 days in advance of the meeting at which the Commission holds a public hearing on the proposed rule. The notice will be required to to be posted on the website of the Commission or other publicly accessible platform, to persons who have requested notice of the Commission's notices of proposed rulemaking, and as determined by rules of the Commission.

The notice of proposed rulemaking will be required to include:

- The time, date, and location of the public hearing at which the Commission will hear public comments on the proposed rule and, if different, the time, date and location of the meeting where the Commission will consider and vote on the proposed rule;

- If the hearing is held via telecommunication, videoconference, or other electronic means, the mechanism for access to the hearing in the notice of proposed rulemaking;

- The text of the proposed rule and the reason for the rule;

- A request for comments on the proposed rule from any interested person; and

- The manner in which interested persons may submit written comments.

The Compact requires the Commission to record all hearings and make available to the public the recording and all written comments and documents received by the Commission. A separate hearing will not be required for each proposed rule.

The Compact requires a majority vote of all members to take final action on the proposed rule. The Commission will be able to adopt changes to the proposed rule, provided that the changes do not enlarge the original purpose of the proposed rule. If changes are made,

the Commission will need to provide an explanation of reasons for any substantive changes as well as an explanation of reason why substantive changes were not made if recommendations were recommended by commenters.

The Compact requires the Commission to determine a reasonable effective date of adopted rules. Except in cases of emergency rulemaking, the effective date will not be earlier than 30 days after issuance of notice that the rule was adopted or amended.

Emergency Rulemaking

The Commission, upon determination that an emergency exists, will be able to consider and adopt an emergency rule with 48 hours' notice with an opportunity for comment or hearing, provided the usual rulemaking procedures provided in the Compact are retroactively applied to the rule as soon as possible, or no later than 90 days after the effective date of the rule. Emergency rules will be defined as those that will be adopted immediately in order to:

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

Rule Revisions

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

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

Oversight, Dispute Resolution, and Enforcement

Oversight

The Compact provides that the executive and judicial branches in each member state will enforce and implement the Compact. Unless specifically provided in the Compact, judicial proceedings and venue will be appropriate in the location of the principal office of the

Commission. The Commission could waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. The Compact will not affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.

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

Default, Technical Assistance, and Termination

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

- Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and any other action to be taken by the Commission; and

- Offer training and specific technical assistance regarding the default.

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

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

The Compact states that immediately upon the termination of a state's membership from the Compact, the state will immediately provide notice to all licensees within that state of such termination. The terminated state will continue to recognize all licenses granted pursuant to the Compact for a minimum of six months after the date of said notice of termination.

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

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

Dispute Resolution

The Compact provides that, upon request of a member state, the Commission will attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.

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

Enforcement

Under the Compact, the Commission enforces the provisions and rules of the Compact. By majority vote, the Commission will be able to initiate legal action in the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state to enforce compliance with the provisions and promulgated rules of the Compact. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party will be awarded all costs of such litigation, including reasonable attorney fees. The remedies included in the Compact will not be the exclusive remedies of the Commission; other remedies available under federal or state law could be pursued.

Under the Compact, a member state will be able to enforce the Compact against the Commission. The member will be able to initiate legal action in the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state to enforce compliance with the provisions and promulgated rules of the Compact. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party will be awarded all costs of such litigation, including reasonable attorney fees.

Effective Date, Withdrawal, and Amendment

The Compact will be effective on the date in which the Compact statute is enacted into law in the seventh member state. At that time, the Commission will convene and review the enactment of the charter member states and will determine if the statutes enacted by each of the seven states is materially different from the model Compact statute. If the Commission finds that there was a materially different enactment by a state, the state will be permitted to follow the default process of the Compact. The Compact permits the Commission to remain in effect in the event that there was a default or withdrawal by one of the seven states. Any state that joins the Compact subsequent to the Commission's initial review of the seven states will also have the statutes enacted by the state reviewed by the Commission to determine if the statutes are materially different from the model Compact.

The Compact provides that all actions taken for the benefit of the Commission or in furtherance of the Compact prior to the effective date of the Compact or the Commission coming into existence will be considered to be actions of the Commission unless specifically repudiated by the Commission. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules will be subject to the rules as they exist on the date in which the Compact becomes law in that state.

Any member state will be able to withdraw from the Compact by repealing the Compact statute. A member state's withdrawal will not take effect until 180 days after enactment of the repealing statute. The Compact states that immediately upon the withdrawal of a state's membership from the Compact, the state will provide notice to all licensees within the state. The withdrawing state will continue to recognize all licenses granted pursuant to the Compact for a minimum of 180 days after the date of said notice of withdrawal. Withdrawal from the Compact will not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of the Compact prior to the effective date of withdrawal.

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

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

Construction and Severability

The provision of the Compact and the Commission's rulemaking authority will be liberally construed so as to effectuate the purposes and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of rules will not be construed to limit the Commission's rulemaking authority solely for those purposes.

The provisions of the Compact will be severable if found to be contrary to the constitution of any member state or state seeking participation in the Compact, or of the United States. If provisions of the Compact are found to be invalid, the validity of the remainder of the Compact and its applicability will not be affected.

The provisions of the Compact allow the Commission to deny a state's participation in the Compact or terminate a member state's participation in the Compact if it determines that a constitutional requirement of a member state is a material departure from the Compact. If the Compact were to be found contrary to the constitution of any member state, the Compact would remain in full force and effect in the remaining member states; portions of the Compact not in conflict with the state's constitution would remain in effect in the affected member state.

Consistent Effect and Conflict with Other State Laws

The Compact states a licensee providing services in a remote state under a multistate authorization to practice will adhere to the laws and regulations, including laws, regulations, and applicable standards, of the remote state where the client is located at the time care is rendered.

Nothing in the Compact prevents the enforcement of any other law of a member state that is not inconsistent with the Compact. Any laws in a member state in conflict with the Compact will be superseded to the extent of the conflict. All permissible agreements between the Commission and the members states will be binding in accordance with their terms.

Background Checks (Amending KSA 2023 Supp. 65-6314)

The bill adds the following requirements for applicants for licensure under the Social Work Licensure Act:

- All applicants for initial licensure, renewal, or reinstatement will be required to submit to a state and national criminal history record check;

- The Behavioral Sciences Regulatory Board (BSRB) could require applicants for renewal of a license to submit to a state and national history record check if the applicant had submitted a history record check in the last five years;

- All applicants for a multistate license will have to be fingerprinted and the BSRB will submit the fingerprints to both the Kansas Bureau of Investigation (KBI) and the FBI for a search of the state and federal databases;

Permitted Use of Information

The bill identifies that fingerprints and criminal history record information will be used to identify a person and determine if the person has a record of criminal history in this state or another jurisdiction.

The bill allows the BSRB to use the the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license of multistate practice privilege under the Compact.

The bill allows the KBI to release criminal history record information related to adult convictions to the BSRB for the requested social work license applicant. The bill allows local and state law enforcement officers and agencies to assist the BSRB in taking and processing of fingerprints of applicants for multistate licensure and release all records of adult convictions to the BSRB.

The bill also permits the KBI to charge a reasonable fee for conducting a criminal history record check.

Confidentiality of Records

The bill makes fingerprints and criminal history record information received through the licensure process confidential nor will it be available through the Kansas Open Records Act. This provision will expire on July 1, 2029, unless renewed and reenacted by the Legislature.

The bill prohibits disclosure or use of any information received through the licensure process except for its intended purpose. Unauthorized disclosure or use is a class A nonperson misdemeanor and will also constitute grounds for removal from office.

The bill defines “licensee” as a person who has:

- Submitted an original application;

- Submitted an application for renewal or reinstatement of a license; or
- A person who currently holds a social work license as issued by the BSRB.

License Fee

The bill provides for the BSRB to establish a fee of not more than $25 for a new license or renewal fee for a home state license with privilege to practice under the Compact, in addition to any other applicable fee.

Elevator Safety Act Updates; House Sub. for SB 143

House Sub. for SB 143 makes various changes to the Elevator Safety Act (Act). The bill amends the Act to:

- Add a requirement that owners of elevators, other than escalators, notify the State Fire Marshal of accidents on elevators, other than escalators, resulting in death, personal injury, or property damage in excess of $1,000 and not allow the elevator to operate until the State Fire Marshal has investigated such accident. The bill makes a violation of this requirement a class A nonperson misdemeanor;

- Remove power-driven stairways, moving walkways, and stairway chair lifts from the definition of elevator;

- Provide that regular routine inspections of elevators are not required when the elevator is insured by an insurance company rated B or better by the AM Best insurance industry rating services agency and the owner or user files a certificate of inspection by such insurance company with the State Fire Marshal and pays an administrative fee of up to $100;

- Require the State Fire Marshal to adopt suitable signage to be affixed to the doors of an elevator that has been determined would jeopardize public safety; the unauthorized removal of such sign or operation of such elevator will be a class A nonperson misdemeanor;

- Prohibit work performed on elevators to be inspected by the individuals who have performed such work;

- Allow services an elevator mechanic or elevator contractor must perform to be performed by employees of licensees at the direction of such licensee;

- Provide that elevators must, beginning on July 1, 2024, conform to the applicable code in effect on the date of the elevator's installation or reinstallation or the code in effect on the date alterations are made to the elevator constituting more than 49.0 percent of such elevator. The bill also specifies that rules and regulations may not require compliance with current American National Standards under the safety code except as provided by the Act;

- Eliminate a provision requiring an applicant for an elevator contractor's license to employ a licensed elevator mechanic prior to applying for such license [*Note:* Continuing law requires licensed elevator mechanics to perform the work.];

- Authorize certification of completion of an elevator technician program through a postsecondary educational institution or passing an equivalency examination prepared by the State Fire Marshal as a way to qualify an individual for an elevator mechanic license;

- Authorize certification of completion of an elevator inspector program through a postsecondary educational institution or passing an equivalency examination prepared by the State Fire Marshal as a way for an individual to qualify for an elevator inspector license;

- Reduce from 8,000 hours to 4,000 hours the hours-worked basis for a person to qualify for elevator mechanic licensure;

- Modify the elevator testing requirements of the Act to specify that only those tests indicated by a written inspection report are required, require a load test to be conducted every six years, and allow a load test conducted by an insurance company inspector or under an elevator maintenance agreement, as well as by a licensed elevator mechanic or contractor, to satisfy the requirement;

- Replace a provision requiring annual elevator inspections with provisions requiring the inspection of all elevators within three years of the effective date of the Act, and:
    - Every year thereafter for elevators located in any county with a population of 100,000 or more;
    - Every other year for elevators located in any county with a population of at least 50,000 but less than 100,000; and
    - Every three years in all other counties;

- Specify that elevators that are subject to elevator maintenance agreements between the owner and a licensee are not subject to the elevator inspection and testing requirements of the Act; and

- Provide that certificates of operation be effective through 30 days following the inspection required by the Act and, in the cases of renewal applications, for the time necessary for the State Fire Marshal to make a determination on the application for renewal.

Abolishing the Law Enforcement Training Center Fund; HB 2491

HB 2491 shifts deposits of fees previously credited to the Law Enforcement Training Center Fund (Fund) to the State General Fund (SGF). The bill abolishes the Fund, removes references to the Fund, and directs the State Treasurer to make these deposits to the SGF rather than the Fund.

Kansas Purple Alert Plan; HB 2531

HB 2531 establishes the Kansas Purple Alert Plan (Purple Alert Plan). The bill requires the Purple Alert Plan to be established and implemented by the Office of the Attorney General in collaboration with the Kansas Bureau of Investigation, Kansas Highway Patrol, local law enforcement agencies, and other public and private agencies and organizations.

Under the Purple Alert Plan, public notice of a missing individual may be promptly broadcast and a search timely undertaken with the cooperation of local law enforcement, news media, and the general public in order to locate the individual in time to avoid serious harm or death. The Purple Alert Plan applies to individuals:

- Who are 18 years of age or older;
- Who have been diagnosed with an intellectual disability;
- Whose whereabouts are unknown;
- Who are believed to be in imminent danger of serious bodily injury or death because of their disability; and
- Who are believed to be unable to return to safety without assistance.

Peer Support Counseling; HB 2557

HB 2557 amends the definition of the term "peer support counseling session" within the Kansas Rules of Evidence.

Under law, members of law enforcement, emergency services, or the Kansas National Guard may utilize a peer support counseling session to discuss a critical incident or traumatic event.

The bill amends the term "peer support counseling session" to expand the reasons a participant may seek a counseling session to include a professional, personal, or social problem, or a difficult life event where peer counseling assistance and guidance would benefit the participant.

Certain information conveyed in a peer support counseling session by a participant or peer support specialist will be considered privileged and may not be disclosed or be considered admissible in judicial, administrative, arbitration, or other adjudicatory proceedings.

The bill extends the privilege to communications made in the counseling session regardless of:

- How the peer support specialist is contacted;
- Whether the session is conducted in a group or in private;
- Where the session is requested or conducted; or
- Whether the session was conducted electronically.

Exceptions to the privilege include certain information related to threats of suicide or criminal acts, information relating to the abuse of persons, admission of criminal conduct, or certain information disclosed with consent. [*Note:* The bill does not amend provisions in law concerning non-privileged disclosures made in a counseling session.]

Law Enforcement Memorial Advisory Committee Membership; HB 2632

HB 2632 expands membership of the Law Enforcement Memorial Advisory Committee from 10 members to 11 members and designates the newly created seat for a representative of the Kansas chapter of Concerns of Police Survivors.

Public Safety Answering Points; HB 2690

HB 2690 amends the Kansas 911 Act (Act) and allows counties or governing bodies of cities to contract with another governing body of a public safety answering point (PSAP) for consolidation of the provision of 911 services, makes changes to how 911 is governed within the state by replacing the current 911 Coordinating Council (Council) with a new State 911 Board, changes how the 911 fees are allowed to be used, and requires 911 fees collected from phone bills and prepaid wireless service to be transferred to the State Treasury.

County PSAP Consolidation

The bill authorizes, beginning on July 1, 2024, any PSAP or governing body of a PSAP to contract with another governing body of a PSAP to provide 911 PSAP services and develop strategies for future enhancements to the 911 system, and it addresses the distributions of 911 fees to counties with consolidated 911 services.

Additionally, the bill requires the governing bodies of PSAPs with consolidated 911 services to:

- Require that the governing bodies of PSAPs entering into a contract or memorandum of agreement (MOA) to provide 911 services address contingency plans and overflow arrangements. The Council will review the contract or MOA to ensure there are no conflicts with the function of the statewide 911 system. If there is an issue, the Council would work and collaborate with the governing bodies of a PSAP to resolve such concerns prior to the effective date of a contract or MOA. In the contract or MOA, the governing body and governing body of a PSAP would agree upon a percentage of the governing body's distribution amount for the local collection point administrator (LCPA) to distribute to the governing body of the PSAP for the provision of 911 services;

- Comply with any rules and regulations requiring how moneys have been spent;

- Maintain geographic information system (GIS) data;

- Report annually to the Council;

- Comply with penalties for non-compliance with annual reporting requirements;

- Comply with requirements for expenditures, including any established purchase pre-approval process; and

- Participate in an annual expenditure review process.

Establishment of 911 Board, Transition, and Sunset of 911 Council

The bill abolishes, on and after July 1, 2025, the existing Council and establishes the State 911 Board (Board).

The composition of the Board will be nearly identical to the current composition of the Council, with the exception that the one member recommended by the League of Kansas Municipalities and the one member recommended by the Kansas Association of Counties will become voting members. Additionally, the bill changes the affiliation of the member representing a fire chief to a representative of the Kansas State Association of Fire Chiefs.

The bill authorizes the Governor to select the Board's chairperson, who is required to have extensive 911 experience in the state and ensure policies adopted by the Board are carried out.

Initial Board Membership

On and after July 1, 2025, the bill deems the appointed members currently serving on the Council as appointed members of the Board, and their terms expire at the same time as the appointed terms on the Council.

Future Board Membership

Terms for new appointments start upon the appointment and last for three years and until a successor is appointed. Terms for voting members will be limited to two consecutive three-year terms, and completing the term of a predecessor will not preclude a member from serving two full terms. Further, terms will end on June 30 in the year in which the term is set to expire. There is an exception for the terms of legislative members serving on the Board, which will expire with their legislative terms.

State 911 Board Powers, Duties, and Responsibilities

The bill requires the Board to carry out the following responsibilities:

- Coordinate E-911 services and next generation 911 (NG911) services in the state;
- Implement statewide 911 communications planning;
- Monitor the delivery of 911 communications services in the state;
- Develop strategies for future enhancements to the 911 system;
- Administer and oversee grants to PSAPs;
- Develop technology standards;

- Establish minimum training requirements for PSAP personnel, GIS technicians, and information technology (IT) technicians with respect to the statewide NG911 call handling system technology to ensure public safety across Kansas;

- Employ a full-time executive director who will:

    - Be the administrative officer of the board;
    - Be an unclassified employee under the Kansas Civil Service Act; and
    - Receive an annual salary set by the board; and

- Make an annual report of all expenditures from 911 fees to the House Committee on Energy, Utilities and Telecommunications and the Senate Committee on Utilities, or their successors.

The bill authorizes the Board to perform the following:

- Contract with any person to assist in the performance of the powers, duties, and functions of the Board;

- Reimburse state agencies or independent contractors for expenses incurred in carrying out the powers, duties, and functions of the Board;

- Apply for grants under the federal 911 Grant Program;

- Recommend training for general PSAP operations;

- Enter into and support agreements for the interstate and interlocal interconnection of ESInet service; and

- Adopt rules and regulations as the Board deems necessary for the implementation and administration of the Act.

The bill also specifies that the Board cannot establish a mandatory certification program for PSAP operations or PSAP emergency communications personnel.

911 Coordinating Council Transition

The bill authorizes the Council, on or after July 1, 2024, to prepare for the transition of powers, duties, and functions to the Board. Actions may include the following:

- Employ individuals deemed necessary to assist with the transition;

    - Employees would be in unclassified service and receive compensation fixed by the Council; and

- Prepare a budget reflecting the establishment of the Board and new 911 funds within the State Treasury.

The bill specifies that expenses related to this preparation will be considered administrative in nature and be paid for with funds within the 911 Operations Fund.

The bill requires, on or after July 1, 2025, necessary employees of the Council to be made employees of the Board, and such employees will retain all benefits and civil service rights that have accrued to or vested in them. Their service is considered continuous.

State 911 Board Successorship

On or after July 1, 2025, the bill makes the Board the successor to the powers, duties, property, and records of the Council in every way. The term "911 Coordinating Council" or words of like effect will refer to the Board. Rules and regulations adopted by the Council also will continue to be in effect and be considered adopted by the Board until amended, revoked, or nullified.

Beginning on July 1, 2025, the bill makes conforming changes throughout by replacing the term "Coordinating Council" with "Board" where necessary. Further, it specifies any contract made between the Council and an LCPA as of January 1, 2025, remains valid until action is taken by the Board.

Continuations of Requirements in the Kansas 911 Act

The bill also continues the following provisions, which currently only apply to the Council but will apply to the Board, PSAPs, and governing bodies that contract with a governing body of a PSAP for the provision of 911 PSAP services [*Note:* The bill repeals the relevant provisions of law and enacts new provisions that are substantially similar, with the only change being the entities they are applicable to.]:

- Wireless telecommunication providers (providers) submit contact information to the Board;

- Providers establish "911" as a unique emergency number;

- Providers seek prior approval from PSAPs to route emergency calls;

- Providers may recover from customers costs associated with 911 fees;

- The Board may assess and recover civil penalties from providers found in violation of the Act;

- PSAPs and contractor-governing bodies of a PSAP file an annual report with the Board and will be subject to penalties for noncompliance; and

- PSAPs and contractor-governing bodies of a PSAP maintain GIS data and its compliance with the law.

Definitions

On or after July 1, 2025, the bill defines the term "Board" to mean the State 911 Board, and makes other conforming changes throughout the definitions section, including, but not limited to, replacing references to the Council with references to the Board.

Creation of Funds in State Treasury and Transfers from External Funds

The bill creates a State 911 Operations Fund, State 911 Grant Fund, and State 911 Fund within the state treasury to receive transfers of 911 fees. Under current law, these fees are received by similarly named funds not within the State Treasury. The bill also requires a transfer of the balance of 911 fees and any liabilities from the external funds to the corresponding funds within the State Treasury. These provisions take effect on January 1, 2026.

The bill requires the funds to be used only for the following purposes:

- Administrative and operational expenses of the Board, including employee salaries (State 911 Operations Fund);
- Expenses incurred for contracts entered into by the Board (State 911 Operations Fund);
- Payment to state agencies or independent contractors (State 911 Operations Fund);
- Development, deployment, implementation, and maintenance of the statewide NG911 system (State 911 Operations Fund);
- State grants for projects involving the development and implementation of NG911 services (State 911 Grant Fund);
- Grants to PSAPs based on demonstrated need (State 911 Grant Fund);
- Costs associated with PSAP consolidation or cost-sharing projects (State 911 Grant Fund); and
- Minimum and direct distribution to PSAPs (State 911 Operations Fund).

The bill also clarifies that, on or after July 1, 2026, the fees, withholding, and distributions that have been administered by the LCPA for the external 911 funds will be remitted to the funds within the State Treasury.

The bill also makes clear that funds deposited in the 911 Federal Grant Fund and 911 State Maintenance Fund, both currently within the State Treasury, will be remitted to the State Treasurer and deposited to the credit of the respective fund. The bill removes the chairperson of the Council as the administrator of each fund. These changes take effect on or after July 1, 2025.

Expenditure Reporting Requirements and Audits

The bill requires, beginning July 1, 2025, the LCPA to provide a report on or before the 15th day of each month to the Director of the Legislative Research Department and Secretary of Administration. The report will account for every transaction involving the external 911 funds in the prior month and include other requirements set forth in the bill. Additionally, the Board is required to prepare a report before January 31, 2026, for the Legislature summarizing the transactions that occurred between July 1, 2025, and January 1, 2026. These provisions expire on February 1, 2026.

Beginning on July 1, 2025, the bill grants the Board the authority to require an audit of wireless provider records concerning the collection of 911 fees and removes this authority from the LCPA.

Additionally, the bill removes provisions requiring the Legislative Division of Post Audit to conduct audits of the 911 system and the Council.

911 Fees and Prepaid 911 Wireless Fees

On or after January 1, 2025, the bill authorizes the Board to lower the 90-cent 911 fee, which current law holds static, if it is found that the moneys generated by the fee exceed the costs required to operate the PSAPs within Kansas.

Beginning on or after July 1, 2024, the bill also increases the minimum county distribution of 911 fees from $60,000 to $70,000. The bill increases the allocation of the percentages of 911 fees distributed to PSAPs based upon county population size by 3.0 percent and combines and increases the lowest population size count category from 25,000 to 34,999 and less than 25,000 to a single category for less than 35,000.

Additionally, beginning on or after July 1, 2024, the bill authorizes the Board to increase the minimum county distribution once a year in an amount not more than the prior year's distribution limit multiplied by the average percentage increase in the Consumer Price Index for urban consumers in the Midwest region. In sum, the Board is permitted to increase the minimum county distribution as indexed to inflation once per year. Before the Board authorizes the increase, it is required to consider:

- Need of the increase based on expenditures of counties that receives a minimum distribution; and

- The impact of an increase on the financial stability of all other distributions to PSAPs.

After January 1, 2026, the bill removes requirements that require the transfer of remaining moneys after distributions to counties that are not attributable to specific counties to the external 911 Operations Fund, and the transfer of prepaid wireless funds from the 911 State Fund to the 911 Operations Fund. The bill requires the Board or the LCPA to certify to the Director of Accounts and Reports the amount of moneys remaining and the amount that is not attributed to a specific PSAP or governing body of a PSAP prior to the transfer of funds to the State 911 Operations Fund.

Further, the bill clarifies that prepaid wireless 911 fees in excess of $3.0 million to be remitted by the Kansas Department of Revenue and deposited in the 911 Operations Fund to be distributed to governing bodies and PSAPs in an amount proportional to the county population expressed as a percentage share of the population of the state. If there is no PSAP within a county, then the moneys will be distributed to the governing body that contracts with another governing body of a PSAP for the provisions of 911 services.

The bill also specifies that the LCPA is required to deposit funds received from a PSAP that had made an unauthorized expenditure in the State 911 Grant Fund.

Technical Changes

The bill makes numerous technical and conforming changes, including, but not limited to, the following:

- Removing language establishing external funds for 911 fees;
- Clarifying the provider remittance to the LCPA;
- Updating names of various entities; and
- Replacing references to “county” with “governing body of a PSAP.”

Pensions and Investments—Countries of Concern Divestment Act; Working After Retirement; Lump-sum Death Benefit; Alternative Investments Cap; HB 2711

HB 2711 creates the Countries of Concern Divestment Act, which will require state-managed funds' divestment from investments with countries of concern and prohibit investments and deposits with a bank or company domiciled in a country of concern and indemnify state-managed funds with respect to actions taken in compliance with the Act; amends the Kansas Public Employees Retirement System (KPERS or Retirement System) working-after-retirement provisions and increases the lump-sum death benefit for a KPERS retiree; and amends law governing the KPERS Trust Fund and investment standards to increase a statutory limitation ("cap") on alternative investments, from 15.0 percent to 25.0 percent, placed on the KPERS Board of Trustees (KPERS Board).

The provisions of the Countries of Concern Divestment Act will expire on July 1, 2029.

Technical Changes

The bill makes technical updates to remove working-after-retirement exceptions that expired January 1, 2018.

Countries of Concern Divestment Act

The bill creates the Countries of Concern Divestment Act. The Act requires state-managed funds' divestment from investments with countries of concern and prohibit investments and deposits with a bank or company domiciled in a country of concern, and also indemnifies state-managed funds with respect to actions taken in compliance with the Act.

Designation of Act and Definitions

The bill establishes several definitions under the Act, including:

- "Company" to mean any:
    - For-profit corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, trust, association, sole proprietorship, or other organization, including any:
        - Subsidiary of such company, a majority ownership interest of which is held by such company;
        - Parent company that holds a majority ownership of such company; and
        - Other affiliate or business association of such company whose primary purpose is to make a profit; or
    - Nonprofit organization;

- "Country of concern" to mean the following:

  - People's Republic of China, including the Hong Kong special administrative region;
  - Republic of Cuba;
  - Islamic Republic of Iran;
  - Democratic People's Republic of Korea;
  - Russian Federation; and
  - Bolivarian Republic of Venezuela.

  The bill specifies that "country of concern" does not include the Republic of China (Taiwan).

- "Covered transaction" will be defined the same as in 31 CFR § 800.213, as in effect on July 1, 2024 [*Note:* 31 CFR Part 800 includes regulations pertaining to certain investments in the United States by foreign persons; it was promulgated by the U.S. Department of the Treasury, Office of Investment Security.];

  "Covered transaction" as defined in the federal Code means:

  - A covered control transaction;
  - A covered investment;
  - A change in the rights that a foreign person has with respect to a U.S. business in which the foreign person has an investment, if that change could result in a covered control transaction or a covered investment; or
  - Any other transaction, transfer, agreement, or arrangement, the structure of which is designed or intended to evade or circumvent the application of Section 721 of Title VII of the Defense Production Act of 1950, 50 USC 4565.

  [*Note:* According to summary information published in the *Federal Register*, the final rule (31 CFR Part 802; 85 FR 3112) established regulations to implement the provisions relating to real estate transactions in Section 721 of the Defense Production Act of 1950, as amended by the Foreign Investment Risk Review Modernization Act (FIRRMA) of 2018. This rule sets forth the scope of, and process and procedures relating to, the national security review by the Committee on Foreign Investment in the United States (CFIUS) of certain transactions involving the purchase or lease by, or concession to, a foreign person of certain real estate in the United States. FIRRMA also broadened authorities of the President and CFIUS to address national security concerns arising from certain non-controlling investments, including the review of certain transactions.]

- "Covered control transaction" will be defined the same as in 31 CFR § 800.210, as in effect on July 1, 2024;

"Covered control transaction" as defined in the Code of Federal Regulations means any transaction that is proposed or pending after August 23, 1988, by or with any foreign person that could result in foreign control of any U.S. business, including such a transaction carried out through a joint venture;

- "Domicile" to mean the country where:
  - A company is organized;
  - A company completes a substantial portion of its business; or
  - A majority of a company's ownership interest is held;

- "Person" to mean an individual;

- "Person owned or controlled by or subject to the jurisdiction or direction of a country of concern" to mean any:
  - Person, wherever located, who is a citizen of a nation-state controlled by a country of concern, unless such person is a lawful permanent resident of the United States; or
  - Corporation, partnership, association, or other organization organized under the laws of a nation-state controlled by a country of concern;

- "State agency" to mean any department, authority, bureau, division, office, or other governmental agency of this state; and

- "State-managed fund" to mean:
  - The Kansas Public Employees Retirement Fund managed by the Board of Trustees of the Kansas Public Employees Retirement System (KPERS) in accordance with provisions governing the management and investment of the fund; and
  - The Pooled Money Investment Portfolio managed by the Pooled Money Investment Board in accordance with Article 42 of Chapter 75 of the *Kansas Statutes Annotated* (addresses state moneys); and
  - Any other fund that is sponsored or managed by a state agency.

State-managed Fund—Sale, Redemption, Divestment, or Withdrawal of Publicly Traded Securities

The bill requires, notwithstanding the provisions of law governing the Kansas Public Employees Retirement Fund and management and investment of this Trust Fund designated to the KPERS Board (KSA 74-4921) or any other statute to the contrary, a state-managed fund to sell, redeem, divest, or withdraw all publicly traded securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern in accordance with this schedule:

- At least 50.0 percent of such assets must be removed from the state-managed fund's assets under management not later than July 1, 2025, or one year from the date the definition of "country of concern" is amended to include such country of concern if amended after July 1, 2024, unless the state-managed fund determines that a later date is more prudent based on a good faith exercise of the state-managed fund's fiduciary discretion and subject to the requirements created pursuant to the January 1, 2026, deadline (described below); and

- 100 percent of such assets must be removed from the state-managed fund's assets under management no later than January 1, 2026, or one year from the date the definition section of the Act is amended to include such country of concern if amended after July 1, 2024.

Removal of assets with prohibition; prohibited acquiring of securities and investing or making a deposit in a bank. If a country of concern takes action to prohibit or restrict the selling, redeeming, divesting, or withdrawing of publicly traded securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern beyond the scheduled removal dates provided in the bill, the bill will require the state-managed fund to remove 100 percent of those assets from the state-managed fund's assets no later than one year from the date that such action is ended by such country of concern.

The bill prohibits a state-managed fund from knowingly acquiring securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern. State-managed funds are also prohibited from investing or making a deposit in any bank that is domiciled in a country of concern.

State-managed Fund—Divestiture

The bill requires, notwithstanding the provisions of law governing KPERS and directing management and investment of the Trust Fund by the KPERS Board or any other statute to the contrary, state-managed funds to divest from any indirect holdings in actively or passively managed investment funds containing publicly traded securities of any country of concern or person owned or controlled by or subject to the jurisdiction of a country of concern. The state-managed fund will be permitted to submit letters to the managers of each investment fund containing publicly traded securities of any country of concern requesting that they remove such publicly traded securities from the fund or create a similar actively or passively managed fund with indirect holding devoid of any such publicly traded securities. If a manager creates a similar fund with substantially the same management fees and same level of investment risk and anticipated return, the bill authorizes the state-managed fund to replace all applicable investments with investments in the similar fund in a time frame consistent with prudent fiduciary standards but no later than the 450th day after the fund is created. If a manager does not create a similar fund, the bill will require the state-managed fund to divest from its indirect holding in actively or passively managed investment funds.

Exception and prohibition, real estate or private equity investment commitments. The bill states that the provisions of this act do not apply to any real estate or private equity investment commitment made by a state-managed fund prior to July 1, 2024, or to a real estate or private equity investment commitment made by a state-managed fund prior to the date either established by the bill or later amended to include a country of concern. The bill will also

prohibit, on and after July 1, 2024, a state-managed fund from making any new real estate or private equity investment commitment in a person owned or controlled by or subject to the jurisdiction of a country of concern.

Reporting to the Legislature; KPERS Reporting to Joint Committee

The bill requires, no later than the first day of the regular session of the Legislature, each state-managed fund to file an annual report with the Legislature. KPERS will also be required to file a report with the Joint Committee on Pensions, Investments and Benefits that:

- Identifies all securities sold, redeemed, divested, or withdrawn in compliance with requirements of the bill;

- Identifies amendments to the definitions section created under this bill to add or remove a country of concern after the later of July 1, 2024, or the last date such information was reported; and

- Summarizes any changes made under provisions pertaining to state-managed fund divestiture from any direct or indirect holdings in actively or passively managed funds containing publicly traded securities of any country of concern (as provided in provisions regarding divestiture).

Cause of Action

The bill provides that in a cause of action based on action, inaction, decision, divestment, report, or other determination made or taken in compliance with the Act, without regard to whether the person performed services for compensation, the State shall:

- Indemnify and hold harmless for actual damages, court costs, and attorney fees adjudged against members of a state-managed fund or any other of its officers related to the act or omission on which the damages are based; and

- Defend the state-managed fund and any of its current and former employees.

Expiration of the Act

On or after July 1, 2028, but prior to July 15, 2028, KPERS will be required to notify the Speaker of the House of Representatives, the President of the Senate, and the chairperson of the Joint Committee on Pensions, Investments and Benefits that this act is scheduled to expire on July 1, 2029.

Working After Retirement; Lump-sum Death Benefit

The bill amends the KPERS working-after-retirement provisions and increases the lump-sum death benefit for a KPERS retiree.

Amendments to working-after-retirement provisions will:

- Add a new category of positions exempt from working-after-retirement employer contributions;

- Increase a retirant threshold amount from $25,000 to $40,000 for the specified 30.0 percent employer contribution; and

- Increase the earnings limit from $25,000 to $40,000 for retired Kansas Police and Firemen's Retirement System (KP&F) members returning to employment with a previous employer.

The bill also makes a clarifying amendment to law governing Retirement System membership waiting periods for the entities exempted from working-after-retirement rules in the bill.

Exemption from Working-after-retirement Rules; Membership Waiting Period

The bill creates a new category of positions exempt from working-after-retirement employer contributions by adding licensed nurses and direct support workers at a KPERS-affiliated community developmental disability organization (CDDO) or a community service provider affiliated with a CDDO to the list of exempted positions. [*Note:* If exempted from the requirements, the participating employer (CDDO) would not have to enroll retirees into KPERS or report compensation to the Retirement System. The participating employer would not make contributions to KPERS. However, retirees would still be required to serve their 60- or 180-day waiting period, as applicable before returning to covered employment, provided there is no prearranged agreement for employment.]

The bill also makes a clarifying amendment to law governing Retirement System membership waiting periods to provide the waiting period applies to the KPERS-affiliated CDDOs or a community service provider affiliated with a CDDO.

Contribution Rates Paid for Covered Positions; Threshold on Retirant Compensation

Under prior law, when a KPERS retirant ("retiree") returns to work for a KPERS-affiliated employer in a covered position, the participating employer is required to pay a 30.0 percent "assessment" on compensation paid to the retiree that exceeds the $25,000 threshold amount. The bill increases this threshold from $25,000 to $40,000 per calendar year. [*Note:* Participating employers are required to make contributions to KPERS to help finance the Retirement System. The working-after-retirement law requires employers to pay the statutory contribution rate for the first $25,000 of the retirant's salary and a 30.0 percent contribution rate ("assessment") on earnings over the $25,000 threshold.]

Earnings Limit—KP&F Members, Returning to Work with Previous Employer

The bill increases from $25,000 to $40,000 the earnings limit on KP&F members who have retired and return to work for a previous employer.

Lump-sum Death Benefit for KPERS Retirees

The bill also increases the lump-sum death benefit for a KPERS retiree from $4,000 to $6,000, beginning on July 1, 2024.

KPERS Board of Trustees; Statutory Cap on Alternative Investments

The bill amends law governing the Trust Fund and investment standards to increase a cap on alternative investments, from 15.0 percent to 25.0 percent, placed on the KPERS Board.

Under law enacted in 2012, the investment of alternative assets by the Board is limited to 15.0 percent of the total investment assets of the fund as a percentage of the Retirement System's total investments. "Alternative investment" is defined in trust fund law to include a broad group of investments that are not one of the traditional asset types of public equities, fixed income, cash, or real estate (*e.g.,* private equity, private credit, hedge funds, infrastructure, and commodities).

Appropriations; SB 28

SB 28 contains supplemental funding in FY 2024, funding for most state agencies for FY 2025, and selected adjustments for FY 2026 through FY 2028. The bill does not include expenditures for K-12 education. [*Note:* Appropriations for K-12 education are enacted in House Sub. for SB 387.]

FY 2024

The bill adjusts total state expenditures to $25.4 billion, including $10.0 billion from the State General Fund (SGF), in FY 2024. This is an all funds increase of $1.1 billion, or 4.4 percent, and a SGF increase of $1.2 billion, or 14.1 percent, above FY 2023 actual expenditures. Further, this represents an all funds decrease of $432.2 million, or 1.7 percent, and a SGF decrease of $442.6 million, or 4.3 percent, below the Governor's recommendation in FY 2024.

Major additions to the FY 2024 budget include the following:

- $24.7 million SGF to pay off the remaining balance and debt obligation for bonds:
    - $20.0 million SGF to call and pay off the remaining balance of Series 2016H bonds in FY 2024. These bonds refinanced prior obligations for a variety of capital improvement projects; and
    - $4.7 million SGF to defease and pay off the remaining balance of Series 2020S bonds, which refinanced prior obligations for the National Bio and Agro-Defense Facility and renovations to the Kansas Statehouse. The bill includes language requiring State Finance Council approval before funds are released;

- $20.0 million, all from the State Highway Fund, for the Central Dispatch facility and a firing range in FY 2024 with language directing the Kansas Highway Patrol to purchase up to 200 acres in Salina ($900,000) and construct a Central Dispatch facility ($11.0 million) and an indoor/outdoor firing range ($7.5 million) on the purchased land;

- $15.7 million SGF for a southwest border mission. The bill includes language directing that expenditures be made to respond to a request for assistance from the State of Texas pursuant to the Emergency Management Compact and that the Adjutant General collaborate with the Governor to activate, mobilize, and deploy state resources to prevent drug and human trafficking and other crimes contributing to an emergency;

- $10.8 million, including $10.2 million SGF, in FY 2024 and $1.0 million for FY 2025 to address the pay plan shortfall in 2023 SB 25;

- $10.0 million SGF for the Career Campus match for the Lansing Correctional Facility;

- $7.0 million SGF for the centralized electronic credentials verification system required by 2023 SB 66;

- $6.2 million SGF for one-time expenditures associated with furnishing and moving into the new Kansas Department of Health and Environment laboratory building;

- $3.4 million SGF for expenditures related to a security incident at the Judicial Branch, including $1.0 million SGF to provide one year of credit monitoring services to individuals impacted;

- $2.5 million SGF to supplement federal grant funds for substance use disorder treatment for uninsured individuals;

- $2.3 million SGF to develop and implement a data management system for Part C early intervention services (Tiny-K) to track referrals, service timelines, evaluations, and billing information; and

- $1.0 million SGF and language for a constituent relationship management software.

FY 2025

The bill includes expenditures totaling $25.1 billion, including $10.4 billion SGF, for FY 2025. This is an all funds decrease of $248.4 million, or 1.0 percent, but a SGF increase of $423.2 million, or 4.3 percent, above FY 2024 recommended expenditures. Further, this represents a decrease of $962.7 million, or 3.7 percent, and a SGF decrease of $312.6 million, or 2.9 percent, below the Governor's recommendation for FY 2025.

Agriculture and Natural Resources Adjustments:

- $10.0 million SGF for small town infrastructure assistance grants to support technical assistance and drinking water and sewer system upgrades for towns with populations less than 1,000;

- $4.0 million, all from federal American Rescue Plan Act (ARPA) funds, to provide small municipalities currently being served by a natural gas gathering field to design, construct, and install natural gas distribution lines that connect to a natural gas service provider; and

- $3.5 million, all from the federal Highway Planning and Construction Fund, to continue development of the Flint Hills Trail.

General Government Adjustments:

- $36.0 million SGF to continue the development of maintenance, repair, and overhaul of airplanes at the airports in Salina ($35.0 million with a $1-for-$1 match) and Topeka ($1.0 million);

- $10.0 million, all from federal ARPA funds, for the 2026 World Cup games. The bill also includes language requiring the FIFA World Cup Kansas City committee to provide an accounting report of all expenditures with an economic and fiscal impact report;

- $9.6 million, all from federal ARPA funds, for retail economic development in northwest Kansas;

- $7.3 million, all from special revenue funds, for housing economic development in northwest Kansas;

- $7.5 million, all from the Kansas Fights Addiction Fund, for substance use disorder treatment among indigent individuals ($5.0 million) and for the expansion of Valley Hope, a residential addiction treatment center in Atchison ($2.5 million); and

- $5.0 million, all from the State Highway Fund, for the Kansas Air Service Development Incentive program for grants to primary airports for FY 2025. The bill includes language directing the Department of Commerce to form a selection committee to evaluate such applications and limiting a single commercial service airport to be awarded no more than $1.0 million.

Human Services Adjustments:

- $122.6 million, including $45.9 million SGF, to implement the fall human services caseloads estimates;

- $48.3 million, including $18.6 million SGF, to increase the average reimbursement rate for agency-directed personal care services on the Frail Elderly (FE) waiver to $30 per hour;

- $47.0 million, including $18.0 million SGF, to continue the Medicaid add-on for nursing facilities at a rate of $15.40 per Medicaid day;

- $45.8 million, including $17.8 million SGF, to add 500 slots each to the Intellectual/Developmental Disability (I/DD) waiver and the Physical Disability (PD) waiver;

- $30.0 million, including $12.0 million SGF, to increase physician provider codes by 9.0 percent;

- $17.0 million, including $8.5 million SGF, to develop a new system compliant with federal Comprehensive Child Welfare Information System (CCWIS) requirements;

- $13.5 million SGF to move the Mental Health Intervention Treatment (MHIT) pilot program from the State Department of Education to the Kansas Department for Aging and Disability Services, with language to lapse the funding if other legislation that funds the program becomes law;

- $6.5 million, including $1.6 million SGF, for a new employment data contract for Medicaid eligibility;

- $5.0 million SGF in one-time expenditures to support hospitals in providing adult inpatient behavioral health services in Kansas; and

- $5.0 million SGF for core funding for the Area Agencies on Aging.

Higher Education Adjustments:

- $75.0 million SGF to construct a new cancer research facility at the University of Kansas Medical Center;

- $25.0 million SGF for a state match for the Kansas State University Agriculture Innovation Initiative. This project relates to the university's $208.0 million initiative on global food and agriculture research, teaching, and engagement;

- $20.0 million SGF for capital renewal;

- $15.8 million SGF for student success initiatives at community and technical colleges;

- $15.0 million SGF for the Western Kansas Nursing Initiative at Fort Hays State University;

- $10.5 million SGF for the Technical Colleges Operating Grant;

- $9.0 million SGF to the Emporia State University investment model;

- $8.1 million SGF for Emporia State University Memorial Union debt enhancement request;

- $5.0 million SGF for community colleges' capital outlay aid for community colleges previously excluded from receiving aid;

- $5.0 million SGF for the Kansas Comprehensive Grant;

- $5.0 million SGF for the Kansas State University Kansas Water Institute;

- $5.0 million SGF for aviation research at Wichita State University;

- $5.0 million SGF for facility demolition; and

- $10.0 million SGF for the career campus match for the Lansing Correctional Facility.

Public Safety Adjustments:

- $4.6 million, all from the Kansas Highway Patrol Operating Fund, for a 10.0 percent increase to the Career Progression Plan for sworn officers. This would be financed by a transfer from the State Highway Fund; and

- $6.9 million SGF and 30.0 FTE positions for the Fight Against Fentanyl effort.

Other Statewide Adjustments:

- $141.0 million, including $61.0 million SGF, to provide salary adjustments for state employees for FY 2025 based on the Department of Administration Market Survey;

- $35.7 million SGF and language directing the funds to be distributed to the Regents Institutions after each executive officer certifies that the Institution has eliminated Diversity, Equity, and Inclusion requirements in the application, admissions, hiring, tenure, review, promotion, and training process for any employee or volunteer position for FY 2025. The bill includes language that if HB 2460 or another bill with similar provisions is signed into law, the funds will lapse back to the agencies (HB 2460 was not signed into law); and

- $14.1 million SGF and language directing the funds to be distributed to the Regents Institutions after each executive officer certifies that the Kansas Comprehensive Grant has been distributed in the same proportions as in FY 2022.

State Budget—Omnibus Appropriations; HB 2551

HB 2551 contains selected expenditure and funding adjustments in FY 2024 through FY 2027. The bill supplements appropriations included in SB 28 (appropriations for state agencies other than the Kansas State Department of Education), House Sub. for SB 387 (appropriations for the Kansas State Department of Education), and SB 438 (relating to the Kansas Blueprint for Literacy). Line items that were vetoed by the Governor and overridden are included below.

FY 2024

The bill adjusts total state expenditures to $25.4 billion, including $10.0 billion from the State General Fund (SGF), in FY 2024. This is an all funds increase of $1.1 billion, or 4.5 percent, and a SGF increase of $1.2 billion, or 14.2 percent, above FY 2023 actual expenditures. Furthermore, this represents an all funds decrease of $445.4 million, or 1.7 percent, and a SGF decrease of $440.1 million, or 4.2 percent, below the Governor's recommendation in FY 2024. Major additions include the following:

- $30.2 million, including $19.6 million SGF, to adjust the Spring 2024 Human Services Consensus Caseloads for a total of $5.0 billion, including $1.5 billion SGF in FY 2024;

- $5.0 million SGF for child and adult behavioral health beds;

- $4.0 million SGF to reduce shrinkage and increase operating expenditures at the Department of Corrections; and

- $2.5 million SGF for Mirror, Inc., to create a regional inpatient juvenile substance use treatment center in south central Kansas.

FY 2025

The bill adjusts total state expenditures to $25.4 billion, including $10.6 billion SGF, for FY 2025. This is an all funds increase of $52.8 million, or 0.2 percent, and a SGF increase of $622.4 million, or 6.2 percent, above FY 2024 recommended expenditures. Furthermore, this represents a decrease of $825.1 million, or 3.1 percent, and a SGF decrease of $200.6 million, or 1.9 percent, below the Governor's recommendation for FY 2025. Major additions, by function of government, include the following:

- **Agriculture and Natural Resources**

  - $6.0 million SGF for small town infrastructure drinking and wastewater projects for towns with a population under 1,000; and

  - Language to disburse moneys from the Division of Conservation, Kansas Department of Agriculture to conservation districts that have submitted the amount of money allocated by county commissioners for such districts at a rate of $2 to $1 state moneys to county moneys with a maximum distribution of $50,000 per conservation district.

- **General Government**

  - $5.0 million SGF for the Eisenhower Library Educational Facility and language requiring a $2-to-$1 match;

  - $3.0 million SGF for domestic violence prevention grants;

  - $904,442 SGF and 8.5 FTE positions in the Office of the Attorney General for Medicaid Inspection and to enforce new laws regarding organized retail crime, age verification of websites harmful to minors, and commercial financing disclosures;

  - Language to delay enforcement of the Kansas Consumer Protection Act against drug manufacturers participating in the 340B drug rebate program until the U.S. Supreme Court issues an opinion on related litigation;

  - Language requesting the State Employee Health Benefits Plan to provide a study on the affordability of employee cost-sharing related to diagnostic and supplementary breast cancer mammograms;

- Language to distribute revenue above $71.5 million from the State Gaming Revenue Fund to the Attracting Professional Sports to Kansas Fund. The bill also contains this language for FY 2026; and
- Language to amend the Build Kansas Matching Grant program to allow a community to request funding for water, transportation, energy, cybersecurity, or broadband infrastructure projects that are also eligible for federal funding requiring a match. The bill also contains this language for FY 2026 and FY 2027.

- **Highways and Other Transportation**
  - $5.0 million, all from the State Highway Fund, for the Kansas Air Service Development Incentive initiative to make grants to commercial airports for new air routes for FY 2025; and
  - $31,440, all from the State Highway Fund, to manufacture and install memorial highway and bridge designation signs for FY 2025.

- **Human Services**
  - $121.7 million, including $79.0 million SGF, to adjust the Spring 2024 Human Services Consensus Caseload Estimate for a total of $5.4 billion, including $1.6 billion SGF, for FY 2025;
  - $26.5 million SGF to construct the Sedgwick County regional psychiatric hospital with a footprint that would allow for expansion to 104 beds;
  - $25.4 million SGF to restore funding for contract nursing staff at the state mental health hospitals;
  - $4.8 million, including $1.9 million SGF, to extend Medicaid coverage for dental exams, x-rays, and cleanings;
  - $4.5 million SGF and language concerning the operation of the Mental Health Intervention Team program;
  - $2.5 million SGF for Valley Hope, including language that 10.0 percent of the beds at the Atchison facility be used for Medicaid-eligible individuals; and
  - Language to authorize hiring and recruitment retention bonuses for state employees at the state hospitals and to raise the maximum bonus cap from $3,500 to $10,000 per fiscal year.

- **Education**
  - $12.0 million SGF for the Kansas Law Enforcement Training Center;
  - $10.0 million SGF for rural family physician residency program expansion grants and language requiring a $2-to-$1 match of non-state or private moneys;
  - $9.0 million SGF for the Emporia State Investment Model;

- $4.0 million SGF for the Central Immersive Training Hub at Kansas State University;
- $1.6 million, including the deletion of $11.2 million SGF, to adopt the Spring 2024 Education Consensus Estimate;
- Language authorizing bonding authority of $34.0 million, all from special revenue funds, including a 15.0 percent match of raised funds for capital improvement projects for the dairy facility at the Kansas State University Manhattan Campus;
- Language authorizing bonding authority of up to $20.0 million, all from special revenue funds, for the construction and equipment of the National Institute for Aviation Research technology and innovation building on the Innovation Campus of Wichita State University; and
- Language requesting an interim committee to evaluate the market pay for employees at state universities.

- **Public Safety**
  - $21.1 million SGF to reduce shrinkage and increase operating expenditures at the Department of Corrections;
  - $2.0 million SGF to lease and outfit a regional Kansas Bureau of Investigation office on the Innovation Campus at Wichita State University; and
  - $2.0 million, all from the State Highway Fund, for a license plate reader system pilot program;

The bill also includes the following transfers:

- $10.0 million from the SGF to the State Water Plan Fund (SWPF);
- $7.5 million from the SWPF to the Water Projects Grant Fund;
- $2.5 million from the SWPF to the Water Technical Assistance Fund of the Kansas Water Office; and
- $5.0 million from the SGF to the Attracting Powerful Economic Expansion (APEX) Payroll Incentive Fund.

STATE GENERAL FUND RECEIPTS, EXPENDITURES, AND BALANCES

HB 2551 – Profile
(Dollars in Millions)

	Actual FY 2023	HB 2551 FY 2024	HB 2551 FY 2025
Beginning Balance	$ 1,834.5	$ 2,410.4	$ 2,610.5
Receipts (April 2024 Consensus)	9,303.1	10,183.2	10,403.5
Governor's Revenue Adjustments	0.0	29.4	(136.1)
Legislative Tax Adjustments*	0.0	(12.2)	(51.6)
Legislative Receipt Adjustments	0.0	(30.0)	73.3
Adjusted Receipts	9,303.1	10,170.4	10,289.1
Total Available	*$ 11,137.6*	*$ 12,580.8*	*$ 12,899.6*
Governor Recommended Expenditures	8,727.2	10,409.9	10,792.8
SB 28 – Mega Bill	0.0	(442.1)	(271.5)
SB 438 – Blueprint for Literacy	0.0	0.0	10.0
SB 387 – Education Bill	0.0	0.0	(68.2)
HB 2551 – Omnibus Bill	0.0	2.5	129.0
Total Expenditures	*$ 8,727.2*	*$ 9,970.3*	*$ 10,592.2*
Ending Balance	**$ 2,410.4**	**$ 2,610.5**	**$ 2,307.4**
Ending Balance as a % of Expenditures	27.6 %	26.2 %	21.7 %
Budget Stabilization Fund Balance	*$ 1,610.3*	*$ 1,693.6*	*$ 1,773.6*

** Legislative tax adjustments includes HB 2097 film tax incentives (vetoed), SB 410 employee retention and net operating loss adjustments, and SB 18 higher education deferred maintenance.*

Unclaimed Property; HB 2577

HB 2577 provides discretionary authority to the State Treasurer to determine the amount of unclaimed property receipts available for long-term investment and to liquidate such investments by the Pooled Money Investment Board for necessary payments to owners of unclaimed property.

State Cybersecurity; House Sub. for SB 291

House Sub. for SB 291 creates and amends law concerning the administration and organization of information technology (IT) and cybersecurity services within each branch of state government.

Cybersecurity Staff Reorganization; IT Services Consolidation and Judicial Branch IT Hardware Plans; Website Domains

Cybersecurity Staff Reorganization

The bill directs that, on and after July 1, 2027, all cybersecurity services for the legislative and executive branches are to be overseen by the Chief Information Technology Officer (CITO) and the Chief Information Security Officer (CISO) within each respective branch and all cybersecurity staff within each branch of state government be directed by the CITO of that branch.

IT Services Consolidation and Judicial Branch IT Hardware and Cybersecurity Program Plans

The bill requires the Information Technology Executive Council (ITEC), in consultation with cabinet agency heads, to formulate a plan to consolidate all Executive Branch IT services under the Office of Information Technology Services (OITS).

The bill requires the Judicial Branch CITO, in consultation with the Executive Branch CITO, to estimate project costs for providing IT to judicial agencies and employees, including state- and county-funded Judicial Branch district court employees. These employees are required to use state-issued hardware. The estimate must include a plan to allow each piece of IT hardware used to access Judicial Branch applications to become part of the Kansas Wide-area Information Network (KanWIN), and estimate the cost to develop a cybersecurity program for all judicial districts that complies with the requirements of the National Institute of Standards and Technology Cybersecurity Framework (CSF) 2.0, as they exist on July 1, 2024.

The bill requires the ITEC and the Executive Branch CITO to present these plans to the House Committee on Legislative Modernization and the Senate Committee on Ways and Means before January 15, 2026.

Website Domains

The bill requires all branch or agency websites to be migrated to a ".gov" domain by February 1, 2025.

Establishing Judicial Branch and Legislative Branch CISOs; Changes to Executive CISO Responsibilities

The bill establishes CISO positions for both the judicial and legislative branches. These officers will be placed in the unclassified service under the Kansas Civil Service Act. The

Judicial Branch CITO is appointed by the Judicial Administrator, subject to approval by the Chief Justice of the Kansas Supreme Court. The Legislative Branch CISO is appointed by the Legislative Coordinating Council. The responsibilities of the CISOs will include:

- Reporting to the Judicial Administrator or the Legislative Branch CITO, respectively;
- Establishing security standards and policies to safeguard the branch's IT systems and infrastructure;
- Ensuring the confidentiality, availability, and integrity of information transacted, stored, or processed within the branch's IT systems;
- Developing a centralized cybersecurity protocol for protecting and managing the branch's IT assets and infrastructure;
- Detecting and responding to security incidents consistent with information security standards and policies;
- Being responsible for the cybersecurity of all branch data and information resources and, for the Legislative Branch CITO, obtaining approval from the Revisor of Statutes prior to taking any action on any matter that involves a legal issue related to IT security;
- Collaborating with the CISOs of the other branches to respond to cybersecurity incidents;
- Ensuring that all branch employees complete cybersecurity awareness training annually and revoking an employee's access to any state-issued hardware or the state network if the employee does not complete the required training;
- Reviewing all IT contracts entered into by a person or entity within the branch to make efforts to reduce the risk of security vulnerabilities within the supply chain or product and ensure they contain standard security language; and
- Coordinating with the U.S. Cybersecurity and Infrastructure Security Agency (CISA) to conduct annual audits of branch agencies for compliance with state and federal laws, rules, regulations, and branch policies. The bill requires the CISO to make such audit requests regardless of whether CISA has the capacity to perform the requested audit.

The bill also amends statutes for the Executive Branch CISO to make the position's responsibilities more consistent with the responsibilities of the Judicial Branch and Legislative Branch CISO positions and account for the creation of the new CISO positions.

Appointment of Elected Office CISOs

The bill requires the Attorney General, Commissioner of Insurance, Secretary of State, State Treasurer, and the Director of the Kansas Bureau of Investigation each to appoint a CISO for their respective office or agency. Each CISO is responsible for establishing security standards and policies to safeguard the office or agency's IT systems and infrastructure.

Cybersecurity Programs and National Institute of Standards and Technology Cybersecurity Framework

The bill requires all CISOs, in consultation with their respective agency heads, to develop cybersecurity programs for their respective agencies that comply with the CSF, ensuring agency achievement of specific tiers by July 1, 2028, and July 1, 2030. [*Note:* The CSF contains guidelines and best practices to reduce risk of a cyberattack and improve an organization's overall security posture.]

Cybersecurity Audits and Vulnerability Assessments

The bill requires, in the event of a CISA audit failure, the appropriate CISO to report the failure to the Speaker of the House, President of the Senate, House Minority Leader, and Senate Minority Leader within 30 days, with a plan to mitigate identified security risks. Results of audits and related reports remain confidential and exempt from disclosure under the Kansas Open Records Act.

The bill also allows the CITO for each branch of government to make a request to the Adjutant General for a National Guard active duty operations group to perform vulnerability assessments of the respective branch for the purposes of enhancing branch security. The operations group is required to limit harm to the system being assessed whenever possible.

Appropriations and Compliance

Beginning on July 1, 2025, and annually thereafter, appropriations from the State General Fund (SGF) or any special revenue fund of any state agency for IT and cybersecurity expenditures must be appropriated as separate line items. These appropriations cannot be merged with other items of appropriation for the respective state agency.

Beginning on July 1, 2028, and annually thereafter, the Director of the Budget (Director), in consultation with relevant CITOs, is directed to assess each state agency's compliance with the provisions of the bill for the previous fiscal year. If found non-compliant, the Director certifies an amount equal to 5.0 percent of the appropriated and reappropriated SGF moneys and 5.0 percent of the funds credited to and available in each special revenue fund for that agency. If a special revenue fund lacks an expenditure limitation, the Director is required to establish a limitation that is 5.0 percent less than the total amount available in that fund. The bill requires a detailed written report each year on these compliance determinations to be submitted to the Legislature prior to the regular session, outlining the amounts certified for each non-compliant state agency for the fiscal year. The Senate Committee on Ways and Means and the House Committee on Appropriations are directed to review and consider a 5.0 percent lapse and decreased expenditure limitation for non-complying agencies during budget committee hearings.

The bill appropriates $659,368 to the Judicial Branch in FY 2025.

The bill also appropriates $15.0 million SGF in FY 2026 to the Kansas Information Security Office (KISO). For the appropriation, the bill requires the Director, in consultation with the Executive Branch CITO and CISO, to determine the five-year average of each state agency's cybersecurity service cost financed with SGF and special revenue funds and lapse the certified SGF amount and transfer appropriate special revenues to a new fund created by the bill.

The bill appropriates $250,000 to the Adjutant General's Department for two full-time employees for the Intelligence Fusion Center for the purpose of monitoring state IT systems.

The bill also creates, and appropriates in FY 2025 and 2026, a no-limit Information Technology Security Fund within the State Treasury, for use by the KISO for receipt and expenditure of special revenue funds transferred from other state agencies for the purposes provided in the bill.

Information Technology Executive Council Changes

The bill modifies the composition of ITEC to make the Legislative Branch CITO, Judicial Branch CITO, and the appointees of the President of the Senate, Senate Minority Leader, Speaker of the House, and House Minority Leader non-voting members, changed from voting members. The bill also adds two IT employees, appointed by the State Board of Regents (Regents), as voting members of ITEC. The Executive Branch CITO will serve as the Chairperson of ITEC. The bill also requires ITEC to meet monthly instead of quarterly.

The bill modifies ITEC's responsibilities to make clear the polices it establishes apply only to Executive Branch agencies. The bill adds to the list of responsibilities the requirement to develop a plan to consolidate all Executive Branch IT services into OITS and report on such a plan to the Legislature.

The bill removes requirements for the Judicial Branch and Legislative Branch CITOs to monitor and determine whether their respective agencies are in compliance with ITEC policy, and instead requires them to monitor and comply with policies set by their respective branches or offices.

CITO Requirements

The bill modifies requirements of the Executive Branch, Judicial Branch, and Legislative Branch CITOs to add requirements to:

- Consult with appropriate legal counsel on matters pertaining to confidentiality of information, the Kansas Open Records Act, the Kansas Open Meetings Act, and any other legal issues related to IT;

- Ensure each agency has the necessary IT and cybersecurity staff embedded to fulfill its duties;

- Maintain all third-party data centers at locations within the United States or with companies that are based in the United States; and

- Create a database of all electronic devices within the branch and ensure that each device is inventoried, cataloged, and tagged within an inventory device.

The bill specifically prohibits IT and cybersecurity staff employed by OITS within branch agencies from disclosing confidential agency information.

The bill modifies the definition of "executive branch agency" in the Kansas Cybersecurity Act to include the Judicial Council and the Kansas Public Employees Retirement System. Additionally, the bill modifies the definitions of "business risk" and "information technology project change or overrun" to include policies or thresholds adopted by the Judicial Branch or Legislative Coordinating Council.

Agency Head Responsibilities

The bill removes certain requirements relating to an agency head's responsibility to ensure the agency's compliance with certain cybersecurity policies, but makes clear that an agency head is responsible for security of all data and IT resources under their purview, and the bill requires coordination with the respective CISO to implement security standards.

Definition Changes and Exemptions

The bill modifies the definition of "executive agency" in statutes governing IT in Chapter 75 of the *Kansas Statutes Annotated*, State Departments, Public Officers and Employees, to include the Judicial Council but not elected office agencies.

The bill also clarifies Regents institutions will be exempt from provisions relating to the delivery of cybersecurity staff reorganization, ".gov" website domain adoption, and requirements for appropriation requests and transfers.

Sunset and Re-codification

The bill sunsets all provisions of the bill, excluding those related to single-year appropriations, on July 1, 2026, and will re-codify certain statutes as they existed on June 30, 2024, where appropriate.

Kathy's Bill and State Use Law Committee Extension; SB 333

SB 333 extends the sunset date for the State Use Law Committee, which is organized within the Department of Administration, from July 1, 2024, to July 1, 2029.

The bill also enacts Kathy's Bill, a statutory state employment hiring preference for persons with disabilities and makes changes to continuing hiring preferences for certain disabled military veterans and surviving spouses.

Kathy's Bill

The bill provides that persons with disabilities, as defined by the bill, be given preference for hiring in state government positions, if they meet the qualifications of the position. For the purposes of the bill, "state government" does not include the judicial or legislative branches nor political subdivisions of the State.

For the purposes of the bill, meeting the qualifications of a position is specified as not depending on the need for reasonable accommodation, as defined by the bill.

The bill requires hiring authorities for such positions to offer an interview to persons with disabilities who meet the qualifications of the position. If a situation occurs in which a disabled veteran, surviving spouse of a deceased disabled veteran, or surviving spouse of a prisoner of war applies for the same position, preference will be given to the individual with the highest qualifications.

Disabled persons, when applying for such a position, are required to provide documentation of their disability by submitting a copy of:

- Their Supplemental Security Income or Social Security Disability Insurance determination letter;
- Their Home and Community Based Services waiver approval letter; or
- A letter from a managed care organization, qualified medical professional, or vocational rehabilitation counselor.

The bill requires the notice and application form for state government job openings to provide an explanation of the preference and the information required from the applicant for the documentation of a disability.

The bill provides that persons with disabilities are given preference for retention in any reductions in state government personnel, with respect to employees who are equally situated in terms of position, qualifications, and performance.

The bill specifies that persons with disabilities have the right not to disclose their disability at the time of hire, but are not able to assert the right to preference for retention unless the disability is disclosed in the manner required by the bill prior to the announcement of a reduction of personnel. Disclosure of a disability to a human resources office must remain confidential until required for provision of reasonable accommodation or for emergency preparedness planning.

The bill specifies that its provisions do not apply to elected officials or their personal secretaries; members of boards or commissions; temporary employees; positions held by patients, inmates, or students in state institutions; or positions requiring credentials to practice as a physician or to practice law in Kansas.

Kansas Open Records Act Exceptions Continued; House Sub. for SB 349

House Sub. for SB 349 continues in existence the following exceptions to the Kansas Open Records Act:

- KSA 2-3906 and KSA 2-3907, concerning fingerprinting and criminal history record checks under the Industrial Hemp Act;
- KSA 41-511, concerning carriers of alcoholic liquors under the Kansas Liquor Control Act; and
- 50-6,109a, concerning information in the Scrap Metal Theft Reduction Act database.

The bill also amends the exception found in KSA 74-50,227, concerning information contained in a Secretary of Commerce report to House Committee on Commerce, Labor and Economic Development and Senate Committee on Commerce that would be detrimental to the development of a STAR bond project or economic development incentive program. The bill makes such reports open for inspection two years after their submission to the Legislature.

Kansas Plane Coordinate System; SB 424

SB 424 adopts the most recent system of plane coordinates, amends statutes regarding the state plane coordinate system, and establishes the Kansas Plane Coordinate System Act, which includes all sections regarding the plane coordinate system. [*Note:* These systems are used in descriptions of land tracts.]

The bill adopts the most recent system of plane coordinates established by the National Oceanic and Atmospheric Administration's National Geodetic Survey, or a successor agency, as the Kansas Plane Coordinate System. This system will be used to define and state the geographic positions or locations of points on, within, or above the surface of the Earth. The bill also states it shall not be construed to prohibit the appropriate use of other datums and other geodetic reference networks established by a state agency or a county.

The bill describes the Kansas Coordinate Systems of 1983 and 1927, the north and south zones within them, values used within them, and the origins of the coordinates. The bill requires a land description to name the Kansas Plane Coordinate System and the zone and, if applicable, the geodetic datum and epoch of the coordinates in decimal years. The bill requires, rather than permits, any tract of land defined by a single description and extending into any adjacent zones to be referred exclusively to only one of the zones.

The bill authorizes expression of a position in distances expressed in feet or decimals of a foot as well as in meters and decimals of a meter, as in current law. The bill defines the standard foot for the Kansas Plane Coordinate System and describes the expression of distances and heights.

The bill amends statutes referencing the Kansas Coordinate System 1983 or the Kansas Coordinate System to reference the Kansas Plane Coordinate System.

Fingerprinting; Criminal History Record Information; SB 491

SB 491 creates and amends law to standardize language pertaining to criminal history and record check fingerprinting requirements for all requesting entities and identify what criminal history records may be released to various agencies for the purpose of verifying a person's identity, criminal history, qualifications, and fitness for employment.

The bill makes conforming amendments in several statutes to reflect the standard language created in the new sections and adds definitions in the applicable statutes as necessary to define who is required to be fingerprinted as provided in the new sections of the bill.

The bill specifies that fingerprints and criminal history record information is confidential and defines the penalties associated with unauthorized disclosure. [*Note:* The bill does not substantively change fingerprinting requirements or the types of criminal records that may be released as already required by statute, with the exception of records released to the Board of Emergency Medical Services, as noted in New Section 2 of the bill.]

Fingerprinting Requirements and Criminal History Records for Criminal Justice Agencies

The bill requires a criminal justice agency, as defined by the Kansas Code of Criminal Procedure, to require an applicant for criminal justice employment to be fingerprinted and have such fingerprints submitted to the state database maintained by the Kansas Bureau of Investigation (KBI) and the federal database maintained by the Federal Bureau of Investigation. Fingerprints submitted may be used to identify the applicant and determine whether the applicant has a record of criminal history in Kansas or another jurisdiction.

The criminal justice agency may use information obtained through fingerprinting for the purposes of verifying a person's identity and determining the person's qualifications and fitness to be employed or to maintain employment.

The bill requires the KBI to release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications, and juvenile diversions to:

- A city clerk for the position of chief of police;
- A county election officer for a candidate for sheriff;
- The Governor for an appointment to the position of Kansas Highway Patrol (KHP) Superintendent; and
- A state, county, city, university, railroad, tribal, Horsethief Reservoir Benefit District, or school law enforcement agency for admitting applicants for certification by the Kansas Commission on Peace Officers' Standards and Training.

In addition to the records described above, the bill requires the KBI to certify any adult conviction record of a chief of police or candidate for sheriff to the Attorney General (AG).

Fingerprinting Requirements and Criminal History Records for Other Governmental Agencies

The bill identifies other governmental agencies that may require a person to be fingerprinted in the manner described above and authorizes such agencies to use information obtained through fingerprinting for the purposes of verifying a person's identity and determining the person's qualifications and fitness to:

- Be issued or maintain employment, licensure, registration, certification, or a permit;
- Act as an agent of a licensee;
- Hold ownership of a licensee; or
- Serve as a director or officer of a licensee.

With respect to fingerprint-based record checks authorized pursuant to this section, the bill requires state and local law enforcement agencies to assist with taking fingerprints of individuals and requires any public body to recess into a closed or executive session to receive and discuss criminal history information obtained. The bill also specifies the KBI may charge agencies a reasonable fee for conducting a criminal history record check, changed from a statutory fee amount.

The bill requires the KBI to release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications, juvenile diversions, and juvenile expunged records to the Kansas Department for Aging and Disability Services (KDADS) or the Kansas Department for Children and Families for participation in a program administered for the placement, safety, protection, or treatment of vulnerable children or adults.

The bill requires KBI to release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records and juvenile expunged records to:

- The Kansas Racing and Gaming Commission (KRGC) for candidates for employment or licensure; and
- The State Lottery for candidates for employment.

The bill requires the KBI to release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications, and juvenile diversions to:

- The AG for applicants for a license to carry a concealed handgun;
- The Department of Administration for candidates for sensitive employees with unescorted physical access to state-operated or contracted data centers, telecommunications facilities, or other security-sensitive areas; and

- The Emergency Medical Services Board (EMS Board) for applicants for an emergency medical service provider certificate. [*Note:* Under prior law, the EMS Board was allowed to receive information related to only adult convictions and juvenile adjudications.]

The bill requires the KBI to release criminal history record information related to adult convictions, adult non-convictions, adult diversions, and adult expunged records to:

- The AG for private detective applicants;

- The AG for certification to train private detectives in the handling of firearms and lawful use of force;

- The Kansas Commission on Peace Officers' Standards and Training for applicants for certification under the Kansas Law Enforcement Training Act;

- The State Gaming Agency for candidates for employment or licensure; and

- The Supreme Court and State Board of Law Examiners for applicants to practice law.

The bill requires the KBI to release criminal history record information related to adult convictions, adult non-convictions, adult diversions, and juvenile adjudications to:

- The Athletic Commission within the Department of Commerce for candidates for the boxing commission; and

- The Secretary of Health and Environment for employees at a child care facility.

The bill requires the KBI to release criminal history record information related to adult convictions and juvenile adjudications to:

- KDADS for applicants for employment as disability services providers;

- The Secretary for Aging and Disability Services for applicants for employment at an adult care home; and

- The Secretary for Aging and Disability Services for applicants for employment with a home health agency.

The bill requires the KBI to release criminal history record information related to adult convictions and non-convictions to:

- The AG for appointees of the Governor to positions subject to confirmation by the Senate and judicial appointees;

- Appointing authorities for non-gubernatorial appointees;

- The Behavioral Sciences Regulatory Board (BSRB) for applicants for a license, registration, permit or certificate issued by the BSRB;

- The Board of Examiners in Optometry for applicants for an optometry license;

- The State Board of Healing Arts (KSBHA) for applicants for any license, registration, permit, or certificate issued by the KSBHA;

- The KSBHA for applicants to be a physical therapist or physical therapy assistant;

- The Board of Nursing for applicants for licensure as a professional nurse, practical nurse, or mental health technician;

- The Board of Pharmacy for persons seeking a license, registration, permit or certificate issued by the Board of Pharmacy;

- The Division of Vehicles, Department of Revenue, for applicants for a license to drive a commercial motor vehicle;

- The Insurance Commissioner for applicants for licensure as an insurance agent;

- The Insurance Commissioner for applicants for a public adjuster license;

- The Real Estate Commission for applicants for licensure to act as a broker or salesperson; and

- The State Lottery for a vendor to whom a major procurement contract is to be awarded.

The bill requires the KBI to release criminal history record information related to adult convictions to:

- The AG for applicants for licensure as a bail enforcement agent;

- The State Banking Board for any officer, director, or organizer of a proposed fiduciary financial institution;

- The Bank Commissioner for:

    - An applicant for a license issued under the Kansas Money Transmitter Act;
    - An applicant for employment as a new executive officer or director with a money transmitter company;
    - A proposed officer, director, or shareholder of a trust company related to a change of control application;

  - Applicants for a license to engage in mortgage business or registration to conduct mortgage business in the state as a loan originator;
  - Members of a co-partnership or association and certain officers or directors of a corporation under the Uniform Consumer Credit Code; and
  - Applicants for licensure under the Kansas Credit Services Organization Act;

- The Kansas Commission for the Deaf and Hard of Hearing (Commission) for:
  - The Executive Director of the Commission;
  - Interpreters; and
  - Communication access service providers;

- The Kansas Commission on Veterans Affairs Office (KCVAO) for candidates for certain types of employment within the KCVAO;

- The Department of Agriculture for:
  - Hemp employees;
  - Licensure as a hemp producer; and
  - Hemp destruction employees;

- The Department of Credit Unions for candidates for employment;

- The Department of Health and Environment (KDHE) for:
  - Employees in the Office of Vital Statistics; and
  - Employees in the Office of Laboratory Services;

- The Department of Revenue for employees and contractors with access to federal tax information;

- The Division of Alcoholic Beverage Control, Department of Revenue, for nonresident applicants for licensure;

- The Division of Vehicles for employees authorized to manufacture, produce, or issue drivers' licenses and identification cards;

- The head of an Executive Branch agency for employees or contractors whose duties include collection, maintenance, or access to personal information;

- The Legislative Division of Post Audit for employees or contractors of the Division;

- The members of a Senate standing committee for appointees to the Kansas Public Employees Retirement Systems Board of Trustees;

- Municipalities for an applicant for merchant or security police;

- The Office of the State Fire Marshal for applicants for registration as a hemp processor; and

- The Real Estate Appraisal Board for:

    - Licensure under the Certified and Licensed Real Property Appraisers Act; and
    - Applicants for licensure under the Appraisal Management Company Registration Act.

Disclosure; Violations

The bill specifies that fingerprints and criminal history record information received pursuant to the bill is confidential and not subject to disclosure pursuant to the Kansas Open Records Act until July 1, 2029, unless the Legislature reviews and reenacts the exemption prior to that date.

Disclosure or use of criminal history information for any purpose other than the purposes established by the bill is a class A nonperson misdemeanor and constitutes grounds for removal from office.

Name-based Criminal History Record Checks

The bill also allows specified governmental agencies, identified below, to require a name-based criminal history record check of a person from the state database maintained by the KBI for the purposes of determining whether the person has a criminal record in Kansas that prohibits the person from employment, licensure, registration, or obtaining a permit.

The bill requires the KBI to release criminal history record information related to adult convictions and non-convictions to:

- The KSBHA for determining qualifications for licensure by the KSBHA; and
- The State Lottery for the purpose of awarding major contracts.

The bill requires the KBI to release criminal history record information related to adult convictions to:

- The AG for applicants for roofing contractor registration;

- The Board of Nursing for applicants for nurse and mental health technician licensure;

- The Governor and the Senate for appointees:
  - As Executive Director of the KRGC;
  - As members of the KRGC; and
  - An Executive Director of the State Gaming Agency;

- The Joint Committee on Kansas Security for committee staff members of the Office of Revisor of Statutes and the Kansas Legislative Research Department;

- KDADS for:
  - Applicants for an adult care home operator license; or
  - Applicants for licensure as an adult care home administrator;

- KDHE for applicants of a permit to construct, alter, or operate a solid waste processing facility;

- KRGC for employees who are animal health officers; and

- The State Lottery for applicants for employment at the Lottery including applicants for employment under the Kansas Expanded Lottery Act.

Technical Amendments

The bill makes conforming amendments to various statutes that authorize fingerprinting and criminal history record checks to reflect the language created in the new sections of the bill. The bill adds definitions in certain statutes to clarify who may be fingerprinted and removes language regarding specific fees that may be charged for criminal history records.

Updating Legislative Post Audit Required Audits; HB 2483

HB 2483 eliminates the requirement for the Legislative Division of Post Audit (LPA) to conduct recurring audits of the implementation of the 911 system, Kansas Public Employees Retirement System (KPERS) audits, and the following economic development incentive audits:

- Economic development incentive programs administered by the Secretary of Commerce;

- Any tax credit program, except for social and domestic tax credits;

- Property that has been exempted from ad valorem taxation;

- Property that has been purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged, or remodeled with all or any

part of the proceeds of revenue bonds issued and that is exempt from ad valorem taxation; and

- Any economic development fund, the Job Creation Fund, and Economic Development Initiatives Fund, as selected by the LPA.

The bill requires the Legislative Post Audit Committee to review any new economic development incentive program four years after it commences, provided the program:

- Is recommended for review by the House Committee on Commerce, Labor and Economic Development or the Senate Committee on Commerce, and

- Provides more than $50,000 of annual incentives.

The bill authorizes the Legislative Post Audit Committee to postpone the initial audit of such economic development programs to five years after commencement of the program in a manner consistent with the intent of statute should it be necessary to conform with LPA's available resources and other statutory requirements of LPA.

Printing and Distribution of Certain State Publications; HB 2615

HB 2615 amends law regarding certain official state publications. The bill, among other things, removes the State Printer from the session law publication process, effectively allowing the Secretary of State to work with another vendor. The bill also eliminates the automatic delivery of the *Kansas Statutes Annotated* and all supplements to certain elected officials, officers, and appointed officials. Moreover, the bill clarifies the digital publication process for Kansas rules and regulations, and allows the Secretary of State to recoup costs for maintaining and storing rules and regulations digitally within a searchable database.

Session Law Printing and Distribution Requirement Changes

The bill removes references to the State Printer from requirements to publish the session laws.

The bill allows the Secretary of State to deliver printed and bound sets of the *Kansas Statutes Annotated* to the following upon request instead of automatically:

- Each member of the Legislature;
- Governor;
- Lieutenant Governor; and
- Attorney General.

The bill requires the Secretary of State to deliver supplements to the *Kansas Statutes Annotated* to all state officers, county officers, and other department officers only upon their request.

The bill also requires the Secretary of State to deliver a set of supplements to each returning member of the Legislature, upon request. The bill requires the Secretary of State to

contact each returning member via email to their legislative email account, a total of three times if no previous response, seeking to determine whether a member would like to receive a set of the *Kansas Statutes Annotated* supplements.

Duties Regarding Publication of Rules and Regulations

The bill removes requirements for the State Rules and Regulations Board to determine the rules and regulations to be published in the Kansas Administrative Regulations and supplements to it and revokes a statute requiring the Board to meet for that purpose.

The bill also removes requirements for the Secretary of State to annually publish the rules and regulations or a supplement; edit, prepare, and publish replacement volumes of the Kansas Administrative Regulations; and publish and make available annual supplements to the Kansas Administrative Regulations.

Digital Publication and Maintenance of Kansas Rules and Regulations

The bill eliminates references to purchases of annual supplements and volumes of the Kansas Administrative Regulations within the Rules and Regulations Filing Act, and requires the Secretary of State to maintain current Kansas administrative rules and regulations in an existing searchable database. The bill also allows the Secretary of State to recover costs associated with maintaining the referenced database.

Adoption of Administrative Rules and Regulations; HB 2648

HB 2648 makes various changes to the process for the adoption of administrative rules and regulations.

Legislative Ratification Requirement

The bill generally prohibits the adoption of any rule and regulation for which the economic impact statement indicates $1.0 million or more in implementation or compliance costs are reasonably expected to be incurred by or passed along to businesses, local governments, or individuals during the initial five-year period following the adoption of the rule and regulation, unless the rule and regulation has been ratified by the Legislature by the enactment of a bill authorizing such rule and regulation. Any member of the Legislature is authorized to introduce such legislation.

"Implementation and compliance costs" are defined to mean direct costs that are readily ascertainable based upon standard business practices, including, but not limited to, fees, the cost to obtain a license or registration, the cost of equipment required to be installed or used, additional operating costs incurred, the cost of monitoring and reporting, and any other costs to comply with the requirements of the proposed rule and regulation.

The bill requires the economic impact statements filed with proposed rules and regulations to include a determination of whether adoption of the rule and regulation would result in more than $1.0 million in such costs in the first five years following adoption of the rule and regulation and eliminates a requirement that such statements include similar determinations over two-year periods.

State agencies prohibited from adopting rules and regulations pursuant to this limitation are authorized to modify the proposed rule and regulation and prepare a revised economic impact statement. The adoption of the modified rule and regulation is authorized if the $1.0 million limitation is not anticipated to be exceeded by the modified rule and regulation.

This requirement does not apply to temporary rules and regulations, rules and regulations proposed because of a federal mandate, or rules and regulations of the Kansas Agricultural Remediation Board.

Duties of the Director of the Budget

The bill requires the Director of the Budget (Director), in reviewing the economic impact statements for proposed rules and regulations, to conduct an independent analysis to determine that the agency has complied with the requirements for economic impact statements and review the agency's determination of the amount of implementation and compliance costs reasonably expected to be incurred by or passed along to businesses, local governments, and individuals over the initial five-year period following adoption of the rule and regulation.

If such costs do not exceed $1.0 million, the bill requires the Director to approve a rule and regulation if the Director independently determines the economic impact statement is a complete analysis and the Director concurs with the economic impact statement and to disapprove the rule and regulation if the economic statement is incomplete or contains substantive inaccuracies.

If such costs do exceed $1.0 million, the Director is required to approve a rule and regulation if the proposed rule and regulation has been ratified by the Legislature and disapprove the proposed rule and regulation if the economic impact statement is incomplete or contains substantive inaccuracies.

The Director's annual reports to the Joint Committee on Administrative Rules and Regulations and the Legislature are required to include information regarding rules and regulations denied due to exceeding the $1.0 million requirement provided by the bill.

Establishment of Rules Governing Future Private Conduct through Adjudication Policy Establishment

The bill provides that policies established by orders in adjudications under the Kansas Administrative Procedure Act or other procedures may not include the establishment of rules governing future private conduct that have the force of law.

Elimination of Legislative Post Audit Study of Economic Impact Statements

The bill eliminates a requirement that the Legislative Division of Post Audit conduct an audit in 2026 to study the accuracy of economic impact statements submitted with proposed rules and regulations, the impact of the review of the Director on the accuracy of such statements, and the appropriate amount of economic impact to trigger additional rules and regulations hearing procedures.

Use of Term "Individual" in the Rules and Regulations Filing Act

The bill replaces the terms "person" and "member of the public" with the term "individual" or "individual and entity," as appropriate, in the amended sections of the Rules and Regulations Filing Act.

Disability Employment Act Tax Credit; Sheltered Workshop Transition Grant Program; SB 15

SB 15 makes several changes to a tax credit available for certain purchases from qualifying vendors employing individuals with disabilities and creates a matching grant program to facilitate the transition of certain employers toward paying employees at least minimum wage.

Tax Credit Changes

Changes to the tax credit include naming the credit, modifying the duration and extent of the credit, expanding the definition of "individuals with disabilities," and restructuring the definition of "qualified vendor" from whom purchases may be made.

Naming the Provisions

The provisions of the tax credit have been named the Disability Employment Act (Act).

Duration and Extent of Credit

The bill eliminates the provision specifying the credit would expire after tax year 2023. The bill provides for a cap on the aggregate amount of credits under the Act to be $5.0 million in tax years 2019 through 2023, $8.0 million in tax years 2024 through 2028, and $8.0 million for each successive five tax years starting in tax year 2029.

Individuals with Disabilities Definition

The bill expands the definition of "individuals with disabilities" to include individuals who are certified by a health care provider, as determined by the Kansas Department of Revenue, who can substantiate an individual as having a physical or mental impairment that constitutes a substantial barrier to employment. The bill also eliminates a requirement that individuals with disabilities work a minimum number of hours per week to qualify for health insurance coverage.

Qualified Vendor Definition

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

- A not-for-profit business qualifying as a certified business pursuant to KSA 75-3740 that:
    - Does business primarily in Kansas or substantially all of its production in Kansas;
    - Employs at least 30.0 percent of its employees in an integrated setting;
    - Offers to contribute at least 75.0 percent of the premium cost for health insurance coverage for each eligible employee; and

- Does not employ individuals under a certificate issued by the U.S. Secretary of Labor under 29 USC section 214(c) (214(c) Certificate);

- A qualified vendor pursuant to KSA 75-3317 that:
  - Employs at least 30.0 percent of its employees in an integrated setting;
  - Offers to contribute at least 75.0 percent of the premium cost for health insurance coverage for each eligible employee, offers a company-sponsored insurance plan under the Affordable Care Act, pays the required subsidy to the Internal Revenue Service for employees to purchase insurance through the open market, or offers assistance to employees to cover at least 75.0 percent of their health insurance costs through legal and appropriate methodology; and
  - Does not employ individuals under a 214(c) Certificate; and

- A division of a Kansas not-for-profit organization that:
  - Does business primarily in Kansas or substantially all of its production in Kansas;
  - Within such division, employs at least 30.0 percent of its employees in an integrated setting;
  - Within such division, offers to contribute at least 75.0 percent of the premium cost for health insurance coverage for each eligible employee, offers a company-sponsored insurance plan under the Affordable Care Act, pays the required subsidy to the Internal Revenue Service for employees to purchase insurance through the open market, or offers assistance to employees to cover at least 75.0 percent of their health insurance costs through legal and appropriate methodology; and
  - Does not employ individuals under a 214(c) Certificate.

[*Note:* The law previously limited qualified vendors to not-for-profit businesses qualifying as certified businesses pursuant to KSA 75-3740 and qualified vendors pursuant to KSA 75-3317 and prohibited any employment by the vendor under a 214(c) Certificate.]

Sheltered Workshop Transition Grant Program

The bill creates the Sheltered Workshop Transition Grant Program (Grant Program) to assist Kansas sheltered workshop employers to transition away from employing individuals with disabilities under a 214(c) Certificate toward paying all such employees at least the minimum wage.

The bill creates the Kansas Sheltered Workshop Transition Fund (Fund), to be administered by the Kansas Secretary of Labor (Secretary), which provides for an annual transfer of $1.0 million to the Fund from the state Economic Development Initiatives Fund (EDIF).

Workshop employers that seek to receive grants are required to provide a transition plan to the Secretary demonstrating how the applicant will use the grant to transition away from the use of a 214(c) Certificate. The workshop employers are required to commit to complete the plan and match grants on a dollar-for-dollar basis with non-state funds. Workshop employers are required to provide information to the Secretary regarding the use of grant funds and associated non-state funds and the progress made toward achieving the goal of the transition plan.

The Secretary must consult with the Secretary for Children and Families and the Secretary for Aging and Disability Services or other appropriate state agency in determining the approval of grants. If the Secretary approves the transition plan and determines the workshop employer has sufficient non-state funds, the Secretary is to award the grant in an amount determined by the Secretary. The Secretary is permitted to award subsequent grants to the same employer upon a showing of satisfactory progress toward the employer's transition plan.

The bill defines "Kansas sheltered workshop employer" and "workshop employer" to be a private, non-profit, state or local government institution that provides employment opportunities for individuals with intellectual, developmental, or physical disabilities and provides such employment opportunities for all or a portion of such individuals under a 214(c) Certificate.

The bill requires, beginning in January 2025, the Kansas Department of Labor to provide annual reports to the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce, or their successor committees, on the amounts and uses of grant funds by employers and the progress made by each employer toward paying all employees at least the minimum wage. The Grant Program expires and all funds in the Fund are to be transferred to the State General Fund on July 1, 2034.

Tax Filing Deadline—ABLE, 529, First-time Home Buyers Account Contributions; 529 Advisory Committee; SB 360

SB 360 allows taxpayers to elect the year in which a subtraction modification would occur for contributions to qualified Achieving a Better Life Experience (ABLE) accounts, qualified 529 program accounts, and first-time home buyers savings accounts and authorizes the State Treasurer to establish a 529 Program Advisory Committee.

Contributions; Election of Tax Year

The bill allows individuals contributing to an ABLE account, 529 program account, or first-time home buyer savings account, between January 1 and the tax filing deadline, to choose the tax year for the individual income tax subtraction modification. The choice would be to either take the subtraction modification in the current tax year or in the previous tax year. [*Note:* This choice is consistent with taxpayer time frame choices regarding taxes for contributions such as individual retirement accounts and health savings accounts.]

529 Program Advisory Committee

The bill also authorizes the State Treasurer to appoint a 529 Program Advisory Committee (Advisory Committee) to make recommendations for the implementation and operation of the program. The State Treasurer will select the membership of the Advisory

Committee, and members will serve at the pleasure of the State Treasurer. The bill provides that no member of the Advisory Committee could receive any compensation, substance, mileage, or other allowance for their service.

[*Note:* An ABLE account (529A ABLE account) is a tax-advantaged savings account to which contributions can be made to meet the qualified disability expenses of the owner or designated beneficiary. A 529 Education Savings Account is a tax-advantaged savings account designed to help designated individuals pay for qualified educational and career advancement expenses. Kansas first-time home buyer savings accounts allow Kansas residents to save money to purchase a first home for themselves or a designated beneficiary.]

Income, Property, and Sales Tax; Miscellaneous Provisions; SB 410

SB 410 amends law related to income tax, property tax, and sales tax.

For income tax purposes, the bill makes changes to the SALT Parity Act, provides for subtraction modifications for certain net operating losses and tax credit disallowances, clarifies and modifies the disallowed business interest deduction, reduces penalties for late remittance of withholding taxes, and extends the single city port authority income tax credit.

For property tax purposes, the bill modifies the revenue neutral rate notification and hearing process, makes changes to property tax exemptions for certain electric generation property, codifies property valuation adjustments related to adverse influences affecting agricultural land, specifies land classification related to agritourism, makes changes related to filing statements for personal property and certain property appeal procedures, and authorizes the use of teleconferencing for certain State Board of Tax Appeals (BOTA) proceedings.

For sales tax purposes, the bill authorizes elections to be held for additional sales tax authority for Marshall, Neosho, and Rawlins counties.

Income Tax Changes

SALT Parity Act Changes

The bill includes a legislative finding that the purpose of the SALT Parity Act tax credit is to avoid double taxation of income on electing pass-through entity owners.

The bill specifies that the tax rate for tax under the SALT Parity Act is the highest rate of tax imposed by the Kansas individual income tax.

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

- The *pro rata* or distributive share of the entity's income for each non-resident owner that is attributable to Kansas; and

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

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

The bill also provides that addition and subtraction modifications and expensing deductions that are attributable to the activities of electing pass-through entities are to be claimed on the tax returns of the entity and the entity's owners in the same proportion and manner as they would have applied without the SALT Parity Act election.

The provisions of the bill are retroactive to tax year 2022.

Net Operating Loss Subtraction Modification

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

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

Federal Tax Credit Disallowance Subtraction Modifications

The bill enacts, beginning in tax year 2021, a subtraction modification in determining Kansas adjusted gross income equal to the amount of federal disallowance related to any federal credit under Subsection (a) of Section 280C of the federal Internal Revenue Code and, effective for tax years 2020 and 2021, 50.0 percent of the amount of federal disallowance related to the Employee Retention Tax Credit. [*Note:* Subsection (a) of Section 280C of the Internal Revenue Code generally pertains to disallowed deductions associated with employment-related tax credits.]

For the Employee Retention Tax Credit disallowance, the taxpayer will be required to prove that Kansas income tax had previously been paid on the disallowed amount and will be permitted to file a claim for refund or amended return on or before April 15, 2025.

The bill also eliminates statutory references to repealed federal tax credits.

Disallowed Business Interest

The bill clarifies the addition and subtraction modifications for disallowed business interest to specify that the addition modification is applicable to interest expenses paid or accrued in previous tax years and carried forward to the current tax year and that the subtraction modification is for interest expense actually paid or accrued in the current tax year.

The bill also provides for tax year 2021 a subtraction modification for interest expenses paid or accrued in tax year 2021 to include the sum of interest expenses paid or accrued in tax years 2018, 2019, and 2020, less the sum of the amounts allowed as a deduction pursuant to Section 163 of the federal Internal Revenue Code in tax years 2018, 2019, and 2020.

Withholding Tax Remittance Penalties

The bill replaces the 15.0 percent penalty for employers not timely remitting withholding taxes with a graduated penalty system providing for penalties as follows:

- 2.0 percent, if the remittance is 1 to 5 days late;
- 5.0 percent, if the remittance is 6 to 15 days late;
- 10.0 percent, if the remittance is more than 15 days late; and
- 15.0 percent, if the remittance is more than 15 days late and the Department of Revenue notifies the taxpayer regarding the delinquency, but the tax is not remitted within 10 days of the notification.

Single City Port Authority Tax Credit Extension

The bill extends the income tax credit attributable to the retirement of indebtedness authorized by a single city port authority, currently scheduled to expire after tax year 2024, through tax year 2029.

Property Tax Changes

Revenue Neutral Rate Changes

The bill specifies that county clerks are not required to send hearing notices to owners of property that is exempt from taxation.

The bill requires the vote of a governing body to exceed the revenue neutral rate to take place on the same day as the commencement of the public hearing to exceed the rate.

The bill also authorizes governing bodies that do not hold hearings pursuant to the revenue neutral rate process to exceed their revenue neutral rate in the case where the final taxable valuation of the taxing entity is less than the estimated value used to calculate the revenue neutral rate, as long as the actual tax levy of the taxing entity is equal to or less than the tax levied in the previous year.

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

- The appraised and assessed value of the taxpayer's property for the current and previous year;

- The amount of property tax of each taxing subdivision on the property from the previous year's tax statement;

- The estimated amount of property tax for the current year of each taxing subdivision based on the revenue neutral rate;

- The estimated amount of property tax for the current year of each taxing subdivision based on the greater of the revenue neutral rate or the proposed tax rate provided by the subdivision to the county clerk, if the subdivision has notified the clerk of its intent to exceed the revenue neutral rate;

- The difference between the current year's maximum tax and the previous year's tax, in both dollars and percent, for each taxing subdivision;

- The date, time, and location of the hearing for each subdivision intending to exceed the revenue neutral rate; and

- For each taxing subdivision holding a revenue neutral rate hearing, the difference between the current year's maximum tax and the estimated tax at the revenue neutral rate.

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

Electric Generation Facility Exemptions

The bill exempts the following property, as defined by the bill, from all property and ad valorem taxes:

- Any new electric generation facility, including nuclear energy facilities, for which construction begins on or after January 1, 2025;

- Any new addition to an electric generation facility constructed or installed on or after January 1, 2025; and

- Any new pollution-control device constructed or installed at an electric generation facility on or after January 1, 2025.

The new exemption does not apply to electric generation facilities that convert renewable energy sources to electricity and applies for ten taxable years following the commencement of construction or installation of the property. [*Note:* Such facilities continue to be eligible for property tax exemptions under existing law.]

The bill specifies that existing property and ad valorem tax exemptions for electric generation facilities and additions to such facilities, including pollution-control devices, only apply to property for which an application for exemption is filed prior to December 31, 2024.

Agricultural Land Adverse Influence

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

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

- Canopy cover, for which value is reduced from 20.0 to 50.0 percent based upon canopy covering of 25.0 to 100.0 percent of the impacted land;

- Salinity and alkalinity, for which value is reduced based upon a taxpayer-provided soil analysis from a crop consulting service;

- Water table fluctuation, for which value is reduced based upon the results of a U.S. Department of Agriculture Natural Resources Conservation Service review of the water table levels of the impacted land; and

- Newly constructed drainage and flood control areas, for which value is reduced based upon the impact on land use from newly constructed drainage and flood control areas.

Agritourism Land Classification

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

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

Residential Valuation Appeals

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

Personal Property Filing Changes

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

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

The bill reduces the penalty for late filing of oil and gas leases and tangible personal property from 5.0 percent to 2.0 percent per month with the maximum penalty for late filing being reduced from 25.0 percent to 10.0 percent. The penalty for a failure to file resulting in escaped taxation is reduced from 50.0 percent to 12.5 percent.

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

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

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

Board of Tax Appeals Teleconferencing

The bill allows BOTA to conduct small claims and expedited hearings and appeals by teleconference or video conference as directed by the Chief Hearing Officer or a designee. [*Note:* Prior law required such hearings and appeals to be held in the county or an adjacent county of where the property is located.]

Sales Tax Changes

The bill authorizes the boards of county commissioners of Marshall County, Neosho County, and Rawlins County to submit to the voters of the respective county a question of imposing a countywide sales tax:

- For Marshall County, at a rate of 1.0 percent for the purpose of financing construction of a jail facility;

- For Neosho County, at a rate of 0.5 percent for the purpose of financing the costs of roadway and bridge construction, maintenance, and improvement; and

- For Rawlins County, at a rate of up to 1.0 percent for the purpose of financing the construction or remodeling of attendance centers or other facilities of any school district within the county.

The respective taxes will expire upon their proceeds being sufficient to pay all costs authorized in financing the costs of the purposes described above.

The proceeds of the taxes are not subject to apportionment with the cities of the respective county.

Sales Tax Exemptions; HB 2098

HB 2098 creates a sales tax deduction for certain motor vehicle transactions, provides for manufacturer's coupons to be excluded from the sales price for sales tax purposes, and creates several sales tax exemptions.

Motor Vehicle Sales Tax Deduction

The bill provides, for purposes of retail sales and compensating use tax, a deduction from the sales price of the purchase of a new or used motor vehicle in the amount of the proceeds from the sale of a used motor vehicle sold by the purchaser within 120 days before or after the purchase. If proceeds from the sale exceeded the purchase price, the purchaser will not owe any sales or use tax.

The deduction applies to any sales of used motor vehicles on or after January 1, 2025.

Individuals may qualify for the deduction by either providing a completed bill of sale to the county treasurer when registering the purchased vehicle or by applying to the Department of Revenue for a refund within three years of the date of the purchase of the replacement vehicle.

The deduction is permitted only if the taxpayer claiming the deduction provides a copy of the required bill of sale on Department of Revenue TR-312 forms or provides the information required by that form, and the information matches the information entered in the assignment of title on the back of the certificate of title.

Manufacturer's Coupons Sales Tax Exclusion

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

Sales Tax Exemptions

The bill creates the following sales tax exemptions:

- For the purchase of equipment, machinery, or other infrastructure purchased for use in the provision of internet access service, telecommunications service, or video service and for the purchase of repair, maintenance, and installation

services purchased by providers in the provision of such internet access service, telecommunications service, or video service. The exemption would expire on July 1, 2029;

- For all sales of the services of slaughtering, butchering, custom cutting, dressing, processing, and packaging of an animal for human consumption when the animal is delivered or furnished by the customer, and the meat is for use or consumption by the customer;

- For the Kansas State School for the Blind and Kansas State School for the Deaf, on purchases related to the building, maintenance, and enlargement of facilities used for human habitation;

- For purchases for the construction, equipment, and maintenance of buildings operated by the Kansas Fairgrounds Foundation and located on the grounds of the Kansas State Fair and for purchases made by a contractor for purposes of constructing and maintaining such facilities. For such purchases made after January 1, 2024, but prior to the effective date of the bill, the bill provides for refunds of sales tax to be paid by the Department of Revenue;

- For Doorstep, Inc., in Topeka, Kansas, for purchases with the purpose of providing short-term emergency aid to families and individuals in need and providing information on services to promote long-term self-sufficiency;

- For Exploration Place, Inc., in Wichita, Kansas, effective January 1, 2024, for the purpose of constructing, remodeling, furnishing, or equipping a riverfront amphitheater, a destination playscape, an education center, and indoor renovations; and

- For Kansas Children's Discovery Center, Inc., (KCDC) in Topeka, Kansas, effective January 1, 2024, for the purpose of constructing, remodeling, furnishing, or equipping a hands-on children's museum with a mission to enhance the lives of children and enrich the communities it serves.

The exemptions for Exploration Place and KCDC also apply to qualifying purchases made by any contractor hired for such projects and sunset on December 31, 2030. For purchases made after January 1, 2024, but prior to the effective date of the bill, refunds of sales tax are to be paid by the Department of Revenue.

Disabled Veterans Sales Tax Exemption

The bill creates a sales tax exemption beginning July 1, 2026, for tangible personal property and services purchased by Kansas resident veterans who have been honorably discharged and have a 100 percent, total, or unemployable permanent disability rating sustained through military service.

Sales of motor vehicles, alcoholic beverages, tobacco products, or electronic cigarettes are excluded from the exemption, as are any purchases not made for personal use or made for the production of income.

Purchases for the benefit of such individuals or made on behalf of such individuals also qualify for the exemption, which is capped at $24,000 of taxable sales per year per eligible person. Surviving spouses of eligible persons will continue to be eligible for the exemption until remarriage.

The bill requires individuals claiming the exemption to apply to the Secretary of Revenue for a veteran exemption identification number, which is to be provided on a card the size of a driver's license upon the provision of information sufficient to establish the eligibility of the individual. The bill requires the exemption identification number or exemption card to be presented to retailers when claiming the exemption.

Upon request of the Secretary of Revenue, an eligible person is required to provide a statement under oath that the total sales amounts have not exceeded the amount provided for by the bill. If the amount of exempt sales exceeds the limit, the amount of excess sales tax will be considered a direct sales tax liability of the eligible individual.

Adoption Savings Account Act; Adoption Tax Credit Increases; Pregnancy Resource Act; Pregnancy Resource Center and Residential Maternity Facility Sales Tax Exemption; HB 2465

HB 2465 enacts the Adoption Savings Account Act (Act); establishes modifications to the Kansas adjusted gross income (KAGI) of an individual for contributions to an adoption savings account (account); amends the adoption tax credit; enacts the Pregnancy Resource Act providing a tax credit for certain contributions to certain pregnancy resource centers and residential maternity facilities; and enacts a sales tax exemption for pregnancy resource centers and residential maternity facilities.

Adoption Savings Accounts

The bill allows an individual, on and after July 1, 2025, to open an account with a financial institution and designate the entirety of the account as an account that will be used to pay or reimburse a designated beneficiary's eligible expenses for the adoption of a child. The bill allows an individual to be the account holder of multiple accounts or jointly own an account, provided the individual files a joint income tax return.

The bill requires the account holder, by April 15 of the year after the taxable year in which the account holder established the account, to designate a prospective adoptive parent as the beneficiary of the account. The bill does not prohibit an account holder from designating the account holder as the designated beneficiary. An account holder is allowed to change the designated beneficiary at any time, but no account can have more than one designated beneficiary at one time. An individual can be the designated beneficiary of more than one account if the accounts are held by separate account holders, but no account holder is authorized to designate the same designated beneficiary on multiple accounts held by the same account holder, except when opening certificates of deposit.

The bill applies the following limits to an account established pursuant to the Act:

- Maximum contribution to an account in any tax year:
    - $6,000 for an individual; and

  - $12,000 for a married couple filing a joint return;

- Maximum amount of all contributions to an account in all tax years:
  - $48,000 for an individual; and
  - $96,000 for a married couple filing a joint return; and

- The maximum total allowable amount in an account is $100,000.

The bill allows moneys to remain in an account for an unlimited duration without the interest or income being subject to recapture or penalty. Further, the bill prohibits the account holder from using moneys in an account to pay expenses for administering the account, except for a service fee that may be deducted by a financial institution. In addition, the account holder is responsible for maintaining documentation for the account and for eligible expenses related to the designated beneficiary's purchase or construction of a primary residence.

Account Moneys

The bill allows the moneys in an account to be used for the following:

- Eligible expenses related to a designated beneficiary's adoption of a child, which includes:
  - Reasonable fees for legal and other professional services rendered in connection with an adoption or placement for an adoption;
  - Reasonable fees of a licensed child-placing agency;
  - Actual and necessary expenses incidental to the adoption or placement proceeding;
  - Actual medical expenses of the mother attributable to the pregnancy or birth;
  - Actual medical expenses of the child; and
  - Reasonable living expenses of the mother that are incurred during or as a result of the pregnancy;

- Eligible expenses that would have qualified pursuant to this section, in cases in which the adoption was not completed;

- Transfers to another newly created account;

- Investment in certificates of deposit opened and designated as adoption savings accounts; and

- Payment of service fees assessed by the financial institution.

The bill subjects moneys withdrawn from an account to recapture by the Secretary of Revenue (Secretary) in the tax year in which they were withdrawn if:

- The time of withdrawal is less than a year since the first deposit in the account; or
- The moneys are used for any purpose other than the expenses or transactions authorized pursuant to the uses outlined in this section.

Moneys subject to recapture are an amount equal to the amount withdrawn from an account and would be added to the KAGI of the account holder or of the designated beneficiary, if the account holder is deceased. If any moneys are subject to recapture, the account holder is required to pay a penalty in the following amounts:

- If the withdrawal of moneys occurred 10 or fewer years after the first deposit of the account, 5.0 percent of the amount subject to recapture; or
- If the withdrawal of moneys occurred more than 10 years after the first deposit in the account, 10.0 percent of the amount subject to recapture.

The penalties do not apply if the withdrawn moneys are from an account in which the designated beneficiary is deceased and the account holder did not designate a new designated beneficiary during the same tax year.

If the account holder or account holders are deceased and the account does not have a surviving transfer-on-death beneficiary, the moneys in the account resulting from contributions or income earned from assets in the account are subject to recapture in the tax year of the death or deaths, but no penalty will be assessed.

Reports

The bill requires the Secretary to establish forms for an account holder to annually report information about any accounts held by the account holder. An account holder is required to annually file relevant supporting information with the account holder's state income tax return.

The bill requires the Secretary to adopt rules and regulations necessary to administer the Act prior to July 1, 2025.

Financial Institutions

The bill states financial institutions are not required to:

- Designate an account as an adoption savings account or designate the beneficiaries of an account in the financial institution's account contracts or systems in any way;
- Track the use of moneys withdrawn from an account; or

- Report any information to the Department of Revenue (Department) or any other governmental agency that is not otherwise required to be reported by law.

The bill states financial institutions are not responsible or liable for:

- Determining or ensuring an account holder is eligible for a KAGI modification;
- Determining or ensuring moneys in the account are used for eligible expenses; or
- Reporting or remitting taxes or penalties related to the use of account moneys.

State Treasurer Marketing

The bill grants the State Treasurer non-exclusive authority to market the program to account holders and financial institutions throughout the state and report on such marketing in the Office of the State Treasurer's annual report.

Modifications to Kansas Adjusted Gross Income of an Individual

The bill adds, for purposes of determining the KAGI of an individual, to the federal adjusted gross income for all taxable years beginning after December 31, 2024:

- The amount of any contributions to, or earnings from, an account if:
    - Distributions from the account were not used to pay for expenses or transactions authorized by the bill; or
    - Were not held for the minimum length of time pursuant to the bill; and

- Contributions to, or earnings from, the account, including any amount resulting from the account holder not designating a surviving transfer-on-death beneficiary pursuant to the bill.

The bill also creates a subtraction modification from the federal adjusted gross income for all taxable years beginning after December 31, 2024, in the following amounts:

- The amount contributed to an account in an amount not to exceed $6,000 for an individual or $12,000 for a married couple filing a joint return; or

- Amounts received as income earned from assets in an account.

Adoption Tax Credit

The bill increases, beginning in tax year 2024, the adoption tax credit to 100.0 percent of the federal adoption tax credit. [*Note:* Prior law provided for a tax credit amount of 25.0 percent of the federal adoption tax credit and additional amounts of 25.0 percent if the child adopted was a Kansas resident prior to the adoption and 25.0 percent if the child was a Kansas resident prior to the adoption and is a child with special needs, as defined in federal law.]

Pregnancy Resource Act

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

- Maintain a dedicated phone number for clients;
- Maintain a primary physical office, clinic, or residential home in Kansas for a minimum of 20 hours a week, excluding state holidays;
- Offer services free of charge to clients for the express purpose of providing assistance to women in carrying pregnancies to term, preventing abortion, and promoting healthy childbirth; and
- Utilize health care providers, as licensed, registered, or certified by the Board of Healing Arts, Board of Nursing, or Behavioral Sciences Regulatory Board, in the performance of any available medical procedures.

The bill allows the credit to be claimed against income, privilege, or premium tax liability beginning in tax year 2024, in an amount equal to 70.0 percent of voluntary contributions made to such centers, and carried forward for up to five future tax years following the tax year in which the eligible contribution was made. The bill prohibits contributions from being payment for services rendered.

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

Administration of Credits

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

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

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

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

Sales Tax Exemption for Pregnancy Resource Centers and Residential Maternity Facilities

The bill creates a sales tax exemption for purchases by a pregnancy resource center or residential maternity facility, which would be defined as a Kansas non-profit organization exempt from the federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code that:

- Maintains a dedicated phone number for clients;
- Maintains a primary physical office, clinic, or residential home in Kansas for a minimum of 20 hours a week, excluding state holidays;
- Offers services free of charge to clients for the express purpose of providing assistance to women in carrying pregnancies to term, preventing abortion, and promoting healthy childbirth; and
- Utilizes healthcare providers, as licensed, registered, or certified by the Board of Healing Arts, Board of Nursing, or Behavioral Sciences Regulatory Board, in the performance of any available medical procedures.

Distinctive License Plates; SB 359

SB 359 authorizes issuance of seven license plates on and after January 1, 2025, and requires the county of registration to be displayed on license plates approved for production and issuance on and after July 1, 2024.

Distinctive License Plates

The bill authorizes issuance of the following distinctive license plates:

- Kansas City Chiefs (Chiefs);
- Sporting Kansas City (Sporting KC);
- Kansas City Royals (Royals);
- Kansas City Current (KC Current);
- Sedgwick County Zoo;
- Topeka Zoo;
- "Support the Troops"; and
- First City of Kansas.

The bill authorizes each of these distinctive license plates to be issued to a vehicle owner or lessee for use on a passenger vehicle or truck registered for a gross weight of no more than 20,000 pounds.

The bill requires the vehicle owner or lessee to annually apply to the sponsor of the license plate no less than 60 days prior to the person's renewal of registration date for use of the logo and pay an annual logo use royalty payment fee of $25 up to $100 to the sponsors for all but the Support the Troops plate; a $25 fee that is not a logo use royalty payment will apply to the Support the Troops plate. The fee will be paid to the following entities for the respective license plates:

- For the Chiefs license plate, to the Kansas City Chiefs Football Club, Inc., to be paid to the Hunt Family Foundation;

- For the Sporting KC license plate, to OnGoal, LLC, to be paid to the Kansas City Soccer Foundation in support of the Victory Project;

- For the Sedgwick County Zoo license plate, to be paid to the Sedgwick County Zoological Society (Society);

- For the Royals license plate, to be paid to the Kansas City Royals Foundation;

- For the KC Current license plate, to be paid to the United Way of Greater Kansas City;

- For the Topeka Zoo license plate, to be paid to the Friends of the Topeka Zoo, Inc.;

- For the "Support the Troops" license plate, 50 percent of moneys received to be paid to the Kansas Department of the American Legion and 50 percent to the Kansas Department of Veterans of Foreign Wars; and

- For the First City of Kansas license plate, to be paid to the Leavenworth County Historical Society.

The bill requires, for each of these plates, an initial commitment for 250 plates and, for each of these plates except the Support the Troops plate, the sponsors to pay up to $5,000 in development costs as required in continuing law (KSA 8-1,141). Initial and renewal registrations will be made through the county treasurer. The plates will not be transferable to any other person, but the bill authorizes the Director of Vehicles, Kansas Department of Revenue (KDOR), to transfer the plate from a leased vehicle to a purchased vehicle.

The bill requires the sponsoring organizations to design the plates, with the approval of the Director of Vehicles, and to provide to all county treasurers an email address for contacting the sponsor about the application process or the status of an application for the plate.

The bill requires, for each of the plates, the applicant to consent to the release of certain information by the Division of Vehicles, KDOR, including applicant name, address, royalty payment amount, plate number, and vehicle type to the sponsor and the State Treasurer.

County of Registration on License Plates

The bill requires each license plate approved for production and issuance on and after July 1, 2024, to have the county of registration horizontally printed on or affixed by decal to the license plate.

The requirement applies to a license plate for any vehicle for which the Kansas motor vehicle tax of Article 51 of Chapter 79 of the *Kansas Statutes Annotated* must be paid; that tax is not applicable to vehicles that are otherwise taxed, such as commercial motor vehicles and vehicles owned by a public service company or car rental company, motor vehicles registered for a gross weight exceeding 12,000 pounds, and recreational vehicles. The requirement also will not apply to a distinctive license plate issued to a recipient of the Congressional Medal of Honor.

Vehicle Dealers Reporting Dates; SB 399

SB 399 changes the deadline for certain reports regarding vehicle sales, from the 20th to the 25th of each month, in the Vehicle Dealers and Manufacturers Licensing Act. [*Note:* Under continuing law, an applicable sales tax report is due on the 25th of each month.]

The change applies to two types of reports:

- For a vehicle dealer, the monthly report detailing all sales or transfers, except sales or transfers by a first or second stage manufacturer to a vehicle dealer of

new or used vehicles, including the name and address of the purchaser or transferee, date of sale, the serial or identification number of the vehicle, and other information as the Division of Vehicles, Department of Revenue, may require; and

- For salvage vehicle dealers, vehicle crushers, vehicle recyclers, rebuilders, scrap metal recyclers, and salvage vehicle pools, the monthly report listing all vehicles for which the major component part containing the vehicle identification number or engine number (if the vehicle was manufactured prior to 1981) that has been disposed of or sold.

Commercial Driver's Licenses: Military Even Exchange Program and Federal Drug and Alcohol Clearinghouse Program; SB 462

SB 462 grants certain authority to the Director of Vehicles (Director) of the Division of Vehicles, Kansas Department of Revenue, regarding the Military Even Exchange Program for commercial driver's licenses (Program) and the Federal Motor Carrier Safety Administration's Drug and Alcohol Clearinghouse Program (Clearinghouse).

Military Even Exchange Program for Commercial Driver's Licenses

The bill authorizes the Director to waive the knowledge and skills test for driving a commercial motor vehicle (CMV) for an applicant who qualifies for a waiver under the Program.

[*Note:* Under the Program, an individual qualifies for an exemption from the knowledge test if the individual:

- Is currently licensed;

- Has been employed within the previous 12 months in a military position requiring operation of a military vehicle equivalent to a CMV; and

- Has submitted a completed application for military skills test waiver.]

The bill removes rule and regulation authority of the Secretary of Revenue regarding CMV skills tests administered by community and technical colleges. [*Note:* No rules and regulations have been promulgated under this authority.]

Drug and Alcohol Clearinghouse

The bill authorizes the Director to adopt rules and regulations necessary to participate in and implement the Clearinghouse.

The bill requires the Director to:

- Query the Clearinghouse prior to issuing or renewing a commercial driver's license (CDL) or instruction permit;

- Review the commercial driver's information when notified by the Clearinghouse of a status change for that driver; and

- Disqualify a driver's commercial driving privileges within 60 days of receiving notice from the Clearinghouse that a driver is in violation of or non-compliant with Clearinghouse requirements.

The bill requires a disqualification of commercial driving privileges to be removed upon notification from the Clearinghouse that the driver:

- Is no longer in violation or non-compliance; or

- Was erroneously identified as in violation of or non-compliant with Clearinghouse requirements. In this case, the bill requires the disqualification to be removed as expeditiously as possible.

The bill adds these provisions to the Kansas Uniform Commercial Drivers' License Act.

Commemorative Designations; HB 2481

HB 2481 make various commemorative designations related to transportation.

Highway and Bridge Designations

The bill designates two portions of K-96 and a bridge in Sumner County in honor of deceased service members from Kansas:

- The PFC Henry Lee Fisher Memorial Highway—the portion of K-96 within the city of Haven in Reno County. According to testimony, PFC Fisher was born and raised in Haven, Kansas, and was killed in action while serving in the U.S. Army during the Vietnam War;

- The 96th Infantry Division Memorial Highway—the portion of K-96 from its junction with 56th Avenue then northwest on K-96 to its junction with Nickerson Road in Reno County. According to testimony, many Kansans, including at least four Reno County residents, served in the 96th Infantry Division during World War II; and

- The SrA Derek Scott Martin Memorial Bridge—bridge No. 160-96-293.72, located on US-160 in Sumner County. According to testimony, SrA Martin was born in Wellington, Kansas, and served six years in the U.S. Air Force, from which he was honorably discharged after serving multiple tours of duty in Iraq and Afghanistan and being awarded a Purple Heart medal for his service.

The bill designates two portions of highway in honor of distinguished Kansans:

- The Ken W Brock Memorial Highway—the portion of US-69 between Grand Road in Bourbon County and East 650th Avenue in Crawford County. According to testimony, Mr. Brock was an advocate for improving US-69 to four lanes from Kansas City to I-44 and was involved in other community improvement endeavors; and

- The Merle Miller Memorial Highway—US-81 in Republic County. According to testimony, Mr. Miller, who was editor and publisher of the *Belleville Telescope*, was dedicated to improving highways, particularly US-81.

The bill also designates as the First Responders Memorial Highway the portion of US-281 from the southern city limits of Russell north to its junction with K-18 in Russell County.

The bill requires the Secretary of Transportation to place suitable signs to indicate the designations once, pursuant to continuing law, sufficient moneys have been received from gifts and donations for the cost of placing such signs, plus an additional 50 percent of the initial cost to defray costs for future maintenance or replacement of the signs.

The bill makes conforming amendments to remove newly designated portions of highway from previous designations:

- From the State Fair Freeway, the portion of K-96 highway designated as the Henry Lee Fisher Memorial Highway;

- From the American Legion Memorial Highway, the portion of US-281 designated as the First Responders Memorial Highway. [*Note:* The American Legion Memorial Highway currently extends from the Nebraska state line to the Oklahoma state line.]; and

- From the Frank Carlson Memorial Highway, the portion of US-81 designated as the Merle Miller Memorial Highway. [*Note:* The Frank Carlson Memorial Highway extends from the Nebraska state line to I-70.]

Railroad Heritage-related Designations

The bill also designates the official state steam locomotive and the official state heritage railroad:

- The Atchison, Topeka and Santa Fe #3415 Pacific class 4-6-2, built in 1919, is designated as the official steam locomotive for the state; and

- The Abilene & Smoky Valley Railroad is designated as the official state heritage railroad.

Public Use General Aviation Airport Development Fund Transfers; HB 2498

HB 2498 increases transfers from the State Highway Fund (SHF) to the Public Use General Aviation Airport Development Fund (Aviation Fund) from $5.0 million to $15.0 million

annually, starting July 1, 2024. The bill also increases the minimum amount that must be expended from the Aviation Fund for such grants from $5.0 million to $15.0 million annually.

Continuing law authorizes the Secretary of Transportation to use the Aviation Fund to provide grants to public use general aviation airports for planning, constructing, reconstructing, or rehabilitating facilities. Continuing law also defines a "public use general aviation airport" to mean any airport used by the general public for the taking off and landing of aircraft, excluding those airports classified as primary by the Federal Aviation Administration (FAA). The FAA defines a "primary airport" as one at which more than 10,000 passengers board annually.

Railroad Crossing and Railroad Rolling Stock Minimum Distances; HB 2501

HB 2501 requires a railroad to maintain a minimum distance of 250 feet between a near-edge railroad crossing and railroad rolling stock stored on sidings if the railroad crossing does not have electronic warning signals. The bill authorizes the Kansas Department of Transportation (KDOT) to determine a greater or lesser distance at a particular location and permit or order a railroad to maintain the greater or lesser distance.

If physical conditions require use of a track temporarily or minimum distances cannot be obtained, the minimum distance provisions of the bill does not apply to:

- Cars placed for or awaiting removal after loading or unloading;
- Bad order cars set out from trains; or
- Rolling stock stored on yard tracks unless otherwise ordered by KDOT.

For purposes of the bill, the term "rolling stock" includes rolling stock not used for the pickup or delivery of freight and where placement on the railroad-owned siding by a railroad is for the sole convenience of the railroad.

Prohibiting Motor Vehicle Energy Source Policies; HB 2783

HB 2783 prohibits any state agency, city, or county from regulating or restricting the use or sale of motor vehicles based on the energy source used by the vehicle for propulsion or for powering other functions. The bill also clarifies its restrictions will not affect any policy established by a state agency or municipality for the purchase of vehicles for the use by such agency or municipality.

Solar-powered Generation Equipment; SB 455

SB 455 clarifies the term "public utility" in law regarding utility regulation, for the purposes of appropriation of property through eminent domain, to include solar-powered electric generation equipment, including solar panels. The bill prohibits public utilities from exercising eminent domain for the purpose of siting or placement of solar facilities.

Cost Recovery for Utilities; Energy Generating Facilities; Net Metering; HB 2527

HB 2527 establishes new mechanisms for the recovery of costs associated with deferred depreciation and new gas-fired generating units; adds and amends law regarding electric public utilities, nuclear-powered and coal-fired electric generating facilities, and the Kansas Corporation Commission (KCC); and amends the Net Metering and Easy Connection Act to further develop regulation and expand capacity for investor-owned utilities to connect customers' renewable energy generation systems to the electric grid.

Cost Recovery Mechanisms

The bill creates and modifies definitions pertaining to cost recovery and rate-making procedures before the KCC. The bill establishes new mechanisms for the recovery of costs associated with deferred depreciation and new gas-fired generating units. Further, the bill modifies the qualification requirement for receiving a discounted electric rate and increases the term of the discount for certain facilities.

Definitions

The bill establishes definitions for provisions related to a utility's recovery of cost for regulatory assets (*e.g.*, power plants, transmission lines). Among the new definitions are the following:

- "Qualifying electric plant" means all rate base additions by an electric public utility, but not including transmission facilities or new electric generating units;

- "Qualifying regulatory asset" means any regulatory asset balance arising from provisions related to the deferral of depreciation of qualifying electric plants, from the rate base cutoff date in the utility's most recent completed rate case to the cutoff date in the current general rate proceeding in which a revenue requirement impact cap is applied;

- "Rate base cutoff" means the date rate base additions are accounted for in a general rate proceeding. In the absence of a commission order that specifies the rate base cutoff date, "rate base cutoff date" would mean the date as reflected in any jointly proposed procedural schedule submitted by the parties in a general rate proceeding or the date that is agreed to by the parties; and

- "Weighted average cost of capital" means the return on rate base used to determine the revenue requirement or that was approved to be used for regulatory accounting purposes in the public utility's most recently ordered return on rate base in a general rate proceeding.

The bill provides a definition for "revenue requirement impact cap." Beginning on July 1, 2024, this cap limits the revenue requirement that a utility could seek in a general rate proceeding for regulatory asset balances, and any excess to that cap results in the regulatory asset balance being reduced. Calculating the impact cap bill requires multiplying 1/12 of 1.5 percent by the number of months between two dates: the effective date of new base rates in the utility's most recently completed rate case and the effective date of new base rates in a general rate case where the cap was initially applied. The resulting value is then multiplied by the revenue requirement from the preceding completed rate case. This definition will only apply to electric public utilities utilizing provisions pertaining to the deferral of depreciation to regulatory assets.

Depreciation Deferrals, Cost Recovery, and Return on Equity

Beginning July 1, 2024, and ending on December 31, 2030, the bill allows an electric public utility to defer 90 percent of depreciation expenses and returns linked to qualifying electric plants in service as regulatory assets. This deferral will begin on July 1, 2024, once the utility notifies the KCC. Any remaining balances will be included in the utility's rate base and recovered through rates without any adjustments. The KCC has the authority to disallow balances it deems imprudent.

The bill specifies that the electric public utilities' earnings on the deferred balances will be calculated using the weighted average cost of capital (previously defined) applied to the change in the rate base related to the qualifying electric plant, along with any relevant taxes. The bill requires any portions of deferred balances not included in the rate base to be accounted for as carrying costs at the electric public utilities' weighted average cost of capital, including applicable taxes.

The bill requires that regulatory asset balances established by its provisions must be recovered from rates over a 20-year period, starting from the date the balance is incorporated into electric utility rates.

The bill authorizes the KCC, upon receiving an application from a public utility utilizing a deferral before December 31, 2028, to permit the utility to extend such deferrals until December 31, 2036. The KCC must reach its decision on the extended deferrals within 240 days of the application's filing and may conduct a hearing on the application if requested by relevant parties. If the KCC denies the application, the denial would affect only deferrals occurring after December 31, 2030.

Economic Development Rates; Requirements

The bill adds to the list of facilities eligible to receive a discounted rate the facilities with a projected peak demand of 25 megawatts (MW) within two years of service under the discounted rate. Demand projections could not be the result of shifting existing demand from the customer's other facilities in the utility's certified service territory.

The bill clarifies how long certain facilities will be eligible to receive discounted rates and extend the discounted rate from 5 to 10 years for facilities with a projected peak demand of 25 MW. The bill would stipulate the maximum average discount for these facilities cannot exceed 40.0 percent, but discounts may range between 20.0 percent and 50.0 percent in the first five-year period. In the second five-year period, the maximum average discount cannot exceed 20.0 percent, but discounts may be between 10.0 percent and 30.0 percent in such period.

The bill prohibits the inclusion in the calculation of the public utilities revenue requirements any variance in revenues resulting from discounted rates, compared with what revenues may have been without the discounts.

The bill provides an exception for any reduction in revenue resulting from any discount that was tracked by the public utility and deferred to a regulatory asset prior to July 1, 2024, by allowing such reduction to be recoverable in any general rate proceeding initiated on or after July 1, 2024, through an equal percentage adjustment to the revenue requirement responsibility for all customer classes of the public utility, including the customer classes that include customers that qualify for discounts pursuant in continuing law.

Continuation of Discount Rates for Certain Facilities

The bill authorizes electric public utilities to offer discount rates for facilities with a projected peak demand of 25 MW until December 31, 2030, unless they apply to the KCC for continued authorization of the discounted rate until December 31, 2036. The bill requires an application for continued authorization to be received on or before December 31, 2028. The KCC is required to make a determination within 240 days of the application's filing and could conduct a hearing on the application if requested by relevant parties. If the KCC denies the application, the denial affects only discounted rates that will have occurred after December 31, 2030.

Removal of Tracking Requirements

The bill removes the requirements for a utility to track reductions in revenue as a result of the discounted rate and defer those reductions in revenue to a regulatory asset.

Rate-making, Generally

The bill modifies the definition of "contract" to increase the threshold at which a utility needs to receive a KCC determination on rate-making principles from $5.0 million to $10.0 million. The bill also clarifies that a public utility may file with the KCC for a determination of rate-making principles for cost recovery when it acquires a stake in a generating facility.

Rate-making Principles for New Gas-fired Generation

The bill establishes rules for how a gas-fired power plant's costs could be covered by utility rates. If the KCC decides it is reasonable for the utility to invest in the plant, the utility would be able to recover 100 percent of construction costs at the weighted average cost of capital, not to exceed the cost estimate found reasonable by the KCC. The cost recovery from customers could begin no sooner than 365 days after construction begins and within 60 days of

filing to utilize the cost recovery mechanism. The rates may be adjusted every six months until new base rates reflecting the plant's costs are established.

Electric public utilities are only authorized to recover construction costs with this mechanism until December 31, 2030, unless they make application to the KCC for continued authorization of the cost recovery mechanism before December 31, 2036. An application for continued authorization must be received on or before December 31, 2028. The KCC will be required to make its determination within 240 days of the application's filing and may conduct a hearing on the application if requested by relevant parties. If the KCC denies the application, the denial will affect only discounted rates that will have occurred after December 31, 2030.

The KCC will have the authority, after a hearing, to require a public utility to issue a refund to customers if it utilizes a mechanism to recover costs of a facility under construction and subsequently terminates the initiative to acquire a stake in the facility.

Legislative Intent and KCC Rate-making Procedures

The bill expresses legislative intent as it applies to petitions for determination of rate-making principles for the construction of transmission and generating facilities and increases from 180 days to 240 days the amount of time the KCC will have to make a determination on petitions.

The bill establishes the following requirements for the KCC in regard to such matters:

- Issue a determination on such petitions expeditiously;
- Attempt to issue a determination before the 240-day deadline;
- Provide notice of the public utility's intent to file a petition to each party or intervenor involved in the utility's most recent rate case;
    - Petitions to intervene will be submitted after a public utility files the petition; and
- Adopt a procedural schedule within 30 days after a petition is filed.

Energy Generating Facilities

The bill adds and amends law regarding electric public utilities, nuclear-powered and coal-fired electric generating facilities, and the KCC.

Requirements for Nuclear-powered and Coal-fired Electric Generating Facilities

The bill includes nuclear-powered and coal-fired electric generating facilities, if determined by the KCC to be just, reasonable, and necessary for the provision of sufficient and efficient service in law regarding rate-making principles and treatment. The bill requires nuclear-powered and coal-fired electric generating facilities to do the following:

- Retain rate base appropriate to the facility;

- Recover expenses associated with operational costs to provide greater certainty that generating capacity will be available to all customers, including during extreme weather events; and

- Recover any portion of the rate base and expenses that are necessary for generation facilities to operate at a low-capacity factor or to provide additional capacity while remaining offline during normal operating conditions.

Abandonment or Retirement of Nuclear-powered or Fossil-fuel-fired Electric Generating Units

The bill prohibits the KCC from approving the retirement of a unit, authorizing surcharges or issuance of bonds for the decommissioning of a unit, or taking any other action that would authorize or allow for the recovery of costs related to the retirement of a unit, including stranded asset recovery, unless:

- The utility demonstrates that the public utility would be able to meet current and reasonably anticipated future resource adequacy requirements of the regional transmission organization or independent system operator; and

- The abandonment or retirement of the unit will not harm the utility's ratepayers or decrease the utility's regional rate competitiveness, unless the KCC determines higher costs are justified in specified factors and are consistent with the integrated resource planning framework. The utility would be required to provide the KCC with evidence of all known direct and indirect costs related to the retirement or abandonment of the unit and demonstrate such cost savings or avoided or mitigated cost increases to customers will occur as a result.

Petition for Determination of Rate-making Principles and Treatment

The bill amends law to extend the timeline from 180 days to 240 days for the KCC to make a determination of rate-making principles and treatment proposed by a petitioning public utility. The bill also establishes guidelines for the KCC, upon the instance a public utility files a petition for a determination of rate-making principles and treatment to require the following:

- The issuance of a determination in an expeditious manner; and

- When circumstances allow, issue a determination in a time frame shorter than the 240-day deadline.

The bill requires a public utility to provide the KCC with notice no less than 30 days before the filing of a petition. The bill requires the KCC, upon receipt of the notice, to provide a notice of the public utility's intent to file a petition to each person or entity involved in the public utility's most recently concluded base rate case.

The bill establishes proceedings guidelines, which require:

- The application for intervention in any proceedings to be submitted no later than 10 days after the public utility's filing of a petition for determination of rate-making principles and treatments; and

- The KCC to adopt a procedural schedule for the proceedings no later than 30 days after a petition is filed for a determination of rate-making principles and treatments.

Annual Reports

The bill requires the KCC to prepare and submit to the Legislature by December 1 of each year an annual report based on the preceding calendar year that provides:

- The number of unit retirement requests in the state;

- The nameplate capacity of each of the requested units;

- Whether the request was approved or denied by the KCC;

- The impact of any KCC-approved retirement of a unit on the:

    - Utility's and state's generation capacity by fuel type;
    - Required capacity reserve margins for the utility and the overall capacity reserve margin within the state;
    - The utility's need for capacity additions or expansions at new or existing facilities as a result of a unit retirement; and
    - The utility's need for additional power or capacity reserve arrangements; and

- Whether the retirement resulted in stranded costs for ratepayers that will be recovered by the utility through securitization or through some other charge on the customer bill.

The provisions of this section of the bill will expire on July 1, 2034.

Net Metering and Easy Connection Act

The bill amends the Net Metering and Easy Connection Act (Act) to further develop regulation and expand capacity for investor-owned utilities (IOUs) to connect customers' renewable energy generation systems, such as rooftop solar panels systems, to the electric grid.

The bill amends definitions in continuing law and establishes new definitions within the Act. The bill increases, over 4 years, the total percentage of allowed net metered interconnections for IOUs to 5.0 percent of peak demand. The bill establishes the methodology for monthly billing calculation of certain customer-generators using time-varying rates (different

billing rates for the use of electricity at certain times of the day). The bill requires that customer-generators be "appropriately sized," codifies the formula used to determine the appropriate size, and establishes requirements on exporting capacity to the electric grid.

Definitions

The bill adds several defined terms:

- "Export" means electricity transmitted from a customer-generator to the electric grid;
- "Generating capacity" means excess electricity generated by net metered facilities;
- "Permission to operate" means the operational date of the customer-generator's net metered facility;
- "Supplied" means electricity provided by an IOU to a net metered electrical system; and
- "Witness test" means an on-site measurement or verification by a utility representative.

The bill revises the definition of "customer-generator" to specify that the customer-generator will fully deliver remaining energy output to the utility.

The bill also amends the definition of "customer-generator" to add provisions requiring the installed mechanism responsible for interrupting electricity flow to be certified by Underwriter Laboratories, an accredited safety organization.

Allowable Net Metered Interconnections

The bill amends eligibility for an IOU net metering option by requiring a customer-generator to be in good standing with the utility.

The bill increases the threshold of generating capacity produced by all net metered systems from the current 1.0 percent by 1.0 percent annually until 2027. From 2027 and each following year, the cap will be limited to 5.0 percent of the utility's historic highest annual peak demand since 2014. The bill authorizes the KCC to increase the 5.0 percent cap after conducting a hearing authorized by continuing law.

The bill authorizes an IOU to introduce incentive programs for customer-generators that began operation after July 1, 2024.

Monthly Variable Time-of-use Billing for Certain Customer Generators

The bill establishes criteria for billing net metered facilities for electricity supplied by the IOU and crediting a net metered facility/system for energy exported to the utility in a given billing

cycle for those net metered facilities that began operating on or after July 1, 2024, and are participating in an optional time-varying rate (rate).

The bill requires the utility to measure the net energy supplied or exported for each time-of-use period established by the optional rate in the same manner as it measures supplied energy to other customers in the same class of service (residential, business, or industrial). Customer-generators will be billed for net supplied energy exceeding their exported energy using the same time-of-use periods, to include all other charges applied to non-customer-generators in a given customer class. If the energy exported from the customer-generator exceeds the energy supplied during a time-of-use period, the IOU will be required to credit a customer-generator at least 100 percent of the IOU monthly system average cost of energy per kilowatt (kW) hour, with any net credit, and net of all other charges applied to the same customer class. The credit will be applied to the next billing period.

In essence, a customer-generator consuming more energy than it produces will be billed for the difference. If the customer-generator produces more energy than it consumes, the utility will apply the difference in cost as a credit on the customer-generator's next bill.

Appropriate Net Metered System Size

For customer-generators that began to operate after July 1, 2014, the bill amends the export limitations to remove the delineation between classes of service and increase the amount of electricity subject to net metering to 150 kW for all classes.

The bill codifies the formula used to calculate the appropriate size of a customer-generator's export capacity in kW-hours using 12 months of historic consumption. If a customer-generator does not have historic consumption, the bill requires the export capacity to be calculated by 7.15 kW-hours per square foot of conditioned space, which will be rounded up to the nearest standard size:

- By 2 kW for facilities with capacity between 2 and 20 kW; and
- By 5 kW for facilities with capacity between 20 and 150 kW.

The bill establishes the following limitation to a net metered facility's export capacity for those customer-generators that begin operating a net-metered facility/system on or after July 1, 2026:

- Export generating capacity shall not exceed 50 percent; and

- Energy storage capacity, including electric vehicles and portable storage devices, are not to be included in the sizing formula unless the device has the ability to add export capacity.

The bill requires a customer-generator that operates a net-metered facility/system designed to export an amount of power that differs from the system's generating capacity to comply with the following:

- Own and maintain necessary export-limiting devices (which control the power generation of a generator, such as a solar panel);

- Restrict the export-limiting device settings to qualified individuals;
- Allow the utility to require a witness test of the export-limiting device function prior to operation;
- Seek approval from the utility prior to increasing the system's export capacity;
- Allow the utility to conduct periodic testing of the export-limiting device; and
- Cease operation if the export-limiting device's settings are incorrect or if the device fails to limit the export of power below the designed capacity for a period exceeding 15 minutes in a single event.

The bill clarifies that a utility cannot restrict the brand or model of an export-limiting device if the device is approved for use by the system manufacturer or Underwriter Laboratories.

Provider Use of County Public Right-of-way; HB 2588

HB 2588 creates certain rights and establishes limitations on the use of county public right-of-way by telecommunication, broadband, and video service providers. The bill's provisions resemble non-discrimination and neutrality provisions in continuing law for the use of city public right-of-way.

Findings and Definitions

The bill makes findings on the importance of telecommunications facilities and uses the definition of "public right-of-way" as found in law regarding telecommunications right-of-way access within cities, with the additional exemption of any real property, structures, or facilities under the ownership, control, or jurisdiction of the Secretary of Transportation. The bill's definition of "provider" is similar to that in law regarding telecommunications right-of-way access within cities.

Provider Rights

Under the bill, local exchange carriers, telecommunications carriers, and video service providers have the right to construct, maintain, and operate poles, conduit, cable, switches, and related appurtenances and facilities along, across, upon, and under any public right-of-way in a Kansas county, as long as any rights issued by the State to a video service provider are not invalidated by such an action. The bill requires such equipment and facilities to not obstruct or hinder the usual travel or public safety on public ways or the legal use by other utilities or providers.

Counties

The bill requires counties to treat similarly situated providers in a non-discriminatory and competitively neutral manner regarding:

- Permit fees;
- Forms and filings required for a permit application;
- Time in approving or denying a permit; and
- Options for waivers of such permit fees, forms, and filing.

Counties are prohibited from creating, enacting, or erecting any discriminatory, unreasonable condition, requirement, or barrier for entry into or use of the public right-of-way by a provider.

Fees

Counties are authorized to impose only the following fees, provided the fees are non-discriminatory, competitively neutral, and related to the county's reasonable, actual, and verifiable costs of managing the public right-of-way:

- A construction permit fee to compensate the county for reasonable administrative expenses for issuing, processing, and verifying the permit application;

- An excavation permit fee for each pavement cut to recover the direct and reasonable costs associated with the provider's construction and repair activity; and

- An inspection fee to recover all reasonable costs associated with the county's inspection of the provider's work.

Counties are expressly prohibited from assessing additional fees for occupying the public right-of-way.

Counties are required to authorize video service providers to offset any fees and charges against payment of any video service provider fee imposed pursuant to the Video Competition Act.

Damages

If a provider causes damages while working in the public right-of-way, the bill authorizes a county to assess against any provider costs associated with repairing and restoring the public right-of-way due to the damages. Additionally, the bill authorizes a county to require a provider to furnish a performance bond to ensure the appropriate and timely performance of construction and maintenance activities.

Upon request by a provider, a county is required to provide an accounting of the costs that are the basis for any damage fee charged.

Other Provisions

The bill also prohibits a provider from entering into a contract with a county to provide a product or service that the provider's business does not actually sell or provide.

Any ordinance pertaining to the use of the county public right-of-way in effect prior to the the effective date of the bill is deemed to not conflict with the provisions of the bill.

Natural Gas Pipeline Safety; HB 2590

HB 2590 increases the maximum penalties for violation of Kansas natural gas pipeline safety rules and regulations. The maximum per violation, per day penalty is increased from $25,000 to $200,000. Additionally, the maximum total civil penalty that could be assessed is capped at $2.0 million, up from $1.0 million, for a given series of violations.

Kansas Air and Army National Guard and Kansas Code of Military Justice Update; State Judge Advocate; SB 292

SB 292 creates law to authorize the appointment of a State Judge Advocate by the Adjutant General; creates and amends law related to death and disability benefits provided to Kansas Air and Army National Guard (Guard) members; and amends law throughout Chapter 48 of the Kansas Statutes Annotated to modernize statutory language, remove outdated statutes, and remove references to trial by court-martial.

The bill updates the Kansas Code of Military Justice (KCMJ). The bill consolidates language from various provisions of Chapter 48 of the Kansas Statutes Annotated into new sections of law and repeals those sections that have been consolidated or otherwise removed. The bill updates language in the remaining sections of the KCMJ to comply with the Uniform Code of Military Justice (UCMJ) and to modernize statutory phrasing. The bill also removes all references to, and sections concerning, trial by court-martial.

[*Note:* Three statutes contained in the KCMJ are not amended or repealed by the bill: KSA 48-3002, concerning who may be subject to the provisions of the KCMJ; KSA 48-3004, concerning convictions of lesser included offenses; and KSA 48-3113, providing the citation of the act.]

State Judge Advocate

The bill directs the Adjutant General, with the approval of the Governor, to appoint an officer of the state military forces as State Judge Advocate with the rank of colonel. The Adjutant General is also authorized to appoint as many assistants to the State Judge Advocate as deemed necessary. The bill requires appointees for the State Judge Advocate and appointees for assistants to the State Judge Advocate to meet the definition of "judge advocate" provided in continuing law.

If the Governor approves, the Adjutant General is authorized to promote a State Judge Advocate to the rank of brigadier general, provided that the State Judge Advocate has:

- Held the rank of colonel for at least 10 years; and
- Served 20 years or more of combined service in the Guard and the U.S. military forces.

Death and Disability Benefits

Annual Adjustments

The bill adds provisions requiring the Military Disability Board (Board), beginning July 1, 2025, to adjust the statutory amount of death and disability benefits provided to Guard members every subsequent July 1 based on that year's Consumer Price Index for All Urban Consumers (CPI-U) percentage increase. [*Note:* The CPI-U, published by the U.S. Bureau of Labor Statistics, is a measure of the average change over time in the prices paid by urban consumers

for a market basket of consumer goods and services and is based on the spending patterns of urban consumers.]

The bill amends law governing the Board to clarify it is required to meet at least annually to determine percentages for death and disability compensation. The bill also requires Board members be paid a per diem and permitted other allowances.

Monthly Benefit Increases

The bill increases the monthly benefit awarded to Guard members with a 100 percent disability who are on state active duty to $850 plus 12.5 percent of their monthly basic pay, changed from $120 plus 12.5 percent of the member's monthly basic pay.

The bill also increases the monthly benefit for a surviving spouse of an eligible deceased member in the same manner as previously described. The bill increases monthly benefit amounts to surviving children of an eligible deceased member as follows:

- One child: $545 (has been $77);
- Two children: $390 per child (has been $55);
- Three children: $340 per child (has been $48);
- More than three children: For each child, an amount determined by dividing the sum of $1,020 (has been $144), plus the product of $198 (has been $28) times the number of children in excess of three, by the total number of children entitled to compensation.

Authority of Adjutant General to Appoint Assistant Adjutants General

The bill amends provisions concerning the appointment of Assistant Adjutants General to permit the Adjutant General to assign the number of Assistant Adjutants General, as authorized by the National Guard Bureau, who will serve at the pleasure of, and perform duties as assigned by, the Adjutant General. [*Note:* Prior law authorized the Adjutant General to appoint two Assistant Adjutants General.]

Under the bill, Assistant Adjutants General hold military rank as authorized and approved by the National Guard Bureau, and are required to have served at least five years as commissioned officers in the Guard at the time of their appointment. The bill requires the Adjutant General to designate one Assistant Adjutant General as the Senior Assistant Adjutant General, who will perform the Adjutant General's duties when the Adjutant General is absent or unable, or when such senior assistant is expressly directed to perform such duties.

The bill removes language pertaining to the Adjutant General's authority over state, federal, and public property, including the state arsenal. The bill also removes authority for the Adjutant General to appoint a finance and disbursing officer.

U.S. Property and Disbursing Officer

The bill replaces provisions outlining the duties of the finance and disbursing officer to instead provide for a U.S. Property and Disbursing Officer (Officer), whose position is to be appointed or assigned pursuant to federal National Guard regulations. The bill requires such Officer (and assistants, as necessary) to secure, receive, disburse, issue, record, and account for all federal funds and military property granted or loaned by the United States to Kansas for use by the Guard. The Officer performs additional duties and exercises power and authority as are assigned by the Adjutant General, or as vested in the Officer by federal regulation.

The bill further specifies that federal funds will be used to pay the salary of the Officer and the salaries of other employees necessary for the discharge of these duties. When such federal funds are not available, state funds will be used.

Uniforms, Arms, and Equipment

The bill removes the requirement that commissioned officers provide themselves with suitable uniforms and other equipment. The bill also removes the provision that non-commissioned officers be provided with uniforms and other equipment free of charge.

Failure to Obey Lawful Orders

The bill clarifies that officers and enlisted persons must obey lawful orders issued by commanding officers. The bill removes penalties for officers and enlisted persons who do not faithfully perform their duties.

Establishment and Use of Armories

The bill removes outdated references to meetings of the Grand Army of the Republic, the Spanish-American War Veterans, and their auxiliary organizations.

Compensation of Guard Members after July 1, 1943

The bill removes a pay schedule providing for specific amounts of compensation for various ranks after July 1, 1943, to instead provide such members will receive appropriate compensation as established by policy, guidance, or regulation.

Trial by Court-martial

The bill removes all references to trial by court-martial in statutes governing the Guard.

Technical Amendments

The bill makes technical amendments in Chapter 48 of the *Kansas Statutes Annotated* to modernize language and ensure consistency in statutory phrasing. The bill also amends law concerning qualifications for service to exclude individuals punitively, rather than dishonorably,

discharged from naval, air, or space military components of states or territories, Puerto Rico, or the District of Columbia.

Prohibition on Confinement with Enemy Prisoners

The bill prohibits the confinement of a member of the state military forces with foreign or domestic enemy prisoners or other foreign nationals who are not members of the Armed Forces.

Appeal of Nonjudicial Punishment

The bill outlines the appeal procedure when a person punished under the KCMJ considers the findings unsupported by the evidence or the punishment unjust or disproportionate to the offense.

The bill specifies, if the punishment relates to apprehension, a person is entitled to one appeal, but is not be entitled to any appeal under this section.

Trial by Civilian Court

The bill states disciplinary punishment for an act or omission under the KCMJ does not bar a trial by a civilian court for a serious crime or offense related to the same act or omission. Any disciplinary punishment under the KCMJ could be considered during a civilian trial and will be required to be considered in sentencing if the accused is found guilty.

Prohibited Sexual Activity

The bill outlines what constitutes prohibited sexual activity under the KCMJ. "Prohibited sexual activity" will mean, as specified in military regulations, inappropriate physical intimacy under circumstances described in such regulations. Such activity will be punished if occurring between:

- An officer in a training leadership position, as defined by the bill, and a specially protected junior member of the Armed Forces, as defined by the bill;
- A military recruiter, as defined by the bill, and an applicant for military service;
- A military recruiter and a specially protected junior member of the Armed Forces who is enlisted under a delayed entry program; or
- A military cadre and specially protected junior member of the Armed Forces who is enlisted under a delayed entry program.

The bill specifies consent will not be a defense for any conduct prohibited by the KCMJ pursuant to this section.

Sexual Harassment

The bill outlines what constitutes sexual harassment under the KCMJ. A person subject to the KCMJ will be punished if:

- Such person made sexual advances, demands, or requests for sexual favors or knowingly engaged in other conduct of a sexual nature;
- Such conduct was unwelcome; and
- Under the circumstances, such conduct:
    - Causes a reasonable person to believe, and such person did believe, that submission to such conduct will be made either explicitly or implicitly a term or condition of a person's job, pay, career, or entitlements;
    - Causes a reasonable person to believe, and such person did believe, that submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting such person's job, pay, career, benefits, or entitlements; or
    - Is so severe, repetitive, or pervasive that a reasonable person perceives, and such person did perceive, an intimidating, hostile, or offensive work environment.

Conduct of Sentinel or Lookout

The bill directs punishment against a sentinel or lookout who is drunk, sleeps, or leaves while on post before being regularly relieved. Similarly, any sentinel or lookout who loiters or wrongfully sits down while on post will be punished under the KCMJ. The bill also provides that any person subject to the KCMJ who, knowing that another person is a sentinel or lookout, behaves in a wrongful and disrespectful manner toward a sentinel or lookout who is on duty will be punished.

Fraudulent Conduct

Adulteration of Public Records

The bill directs punishment against a person subject to the KCMJ if such person alters, conceals, removes, mutilates, obliterates, or destroys a public record or takes a public record with the intent to do the same.

Making False Writings

The bill directs punishment against a person subject to the KCMJ if such person intentionally falsely makes or alters any signature or writing that would, if genuine, impose a legal liability on another or changes their legal rights or liability. The bill also imposes

punishment on a person who knows a writing is false and utters, offers, issues, or transfers the writing.

Impersonations

The bill directs punishment against a person subject to the KCMJ if such person willfully, or with intent to defraud, impersonates:

- An officer, noncommissioned officer, or petty officer;
- An agent of superior authority of one of the Armed Forces or state military forces; or
- A government official.

The bill states that if a person impersonates a government official by committing an act that exercises or asserts the authority of the office of the official being impersonated, such person will be punished under the KCMJ, even if they did not have intent to defraud.

Unauthorized Wearing of Decorations

A person subject to the KCMJ will be punished if such person wears an insignia, decoration, badge, ribbon, device, or lapel button upon the person's uniforms or civilian clothing when the person is not authorized to wear such decorations.

Mail Tampering

The bill directs punishment against a person subject to the KCMJ if such person wrongfully takes any mail before such mail is delivered to or received by the addressee, with the intent to obstruct the correspondence or to pry into the business secrets of any person or organization. A person will also be punished for wrongfully opening, destroying, or stealing mail before such mail is delivered to or received by the addressee.

Vehicle Accidents Resulting in Personal Injury or Property Damage

A person subject to the KCMJ who is involved in a vehicle accident causing personal injury or property damage will be punished under the KCMJ if such person:

- Is the driver of a vehicle that is involved in an accident that results in a personal injury or property damage; and
- Wrongfully leaves the scene of the accident without providing assistance to an injured person, personal identification to others involved in the accident, or personal identification to appropriate authorities.

A person will also be punished under the KCMJ if such person:

- Is a passenger in a vehicle that is involved in an accident that results in personal injury or property damage;

- Is the superior commissioned or noncommissioned officer of the driver or commander of the vehicle; and

- Wrongfully and unlawfully orders, causes, or permits the driver to leave the scene of the accident without providing assistance to an injured person, personal identification to others involved in the accident, or personal identification to appropriate authorities.

Violent Conduct

The bill directs punishment against a person subject to the KCMJ when such person displays any conduct involving violence toward others, as follows.

Discharge or Brandishment of a Firearm

The bill directs punishment against a person subject to the KCMJ if such person willfully and wrongfully discharges or brandishes a firearm under any circumstance that endangers a human life or causes a reasonable person to be apprehensive of the potential endangerment of human life.

Simple Assault

The bill directs punishment against a person guilty of simple assault under the KCMJ if such person, who is subject to the KCMJ:

- Attempts to do bodily harm to another person;
- Offers to do bodily harm to another person; or
- Does bodily harm to another person.

For the purposes of this section, “another person” means a cadet, trainee, or recruit of the state military forces, the U.S. Armed Forces, or the state military forces of another state.

Domestic Violence

The bill directs punishment against a person who:

- Commits a violent offense against a spouse, intimate partner, or immediate family member of such person;

- Commits an offense under the KCMJ against any person or any property, including animals, with the intent to threaten or intimidate a spouse, intimate partner, or immediate family member of such person;

- Violates a protection order, with the intent to threaten or intimidate a spouse, intimate partner, or immediate family member of such person; or

- Violates a protection order, with the intent to commit a violent offense against a spouse, intimate partner, or immediate family member of such person.

Threats of Violence

The bill directs punishment against a person who communicates a threat to injure the person, property, or reputation of another.

The bill also specifies a person will be punished if such person communicates a threat, or maliciously communicates a false threat, to injure the person, property, or reputation of another by use of:

- An explosive;
- A weapon of mass destruction;
- A biological or chemical agent, substance, or weapon; or
- A hazardous material.

The bill defines "false threat" to mean a threat that, at the time it is communicated, is known to be untrue by the person communicating the threat.

Distribution of Intimate Visual Images or Sexually Explicit Conduct

The bill outlines when a person will be guilty of wrongful distribution of intimate visual images or visual images of sexually explicit conduct (images). The bill states a person subject to the KCMJ will be punished if such person:

- Knowingly and wrongfully broadcasts or distributes an image involving a person who:
    - Is at least 18 years of age at the time the image was created;
    - Is identifiable from the image or from information displayed in connection with the image; and
    - Does not explicitly consent to the broadcast or distribution of the image;

- Knows or reasonably should have known that the image was made under circumstances in which the person depicted in the image retained a reasonable expectation of privacy regarding any broadcast or distribution of the image;

- Knows or reasonably should have known that the broadcast or distribution of the image is likely to:

  - Cause harm, harassment, intimidation, emotional distress, or financial loss for the person depicted in the image; or
  - Harm substantially the depicted person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relations; or

- Engaged in conduct that had a reasonably direct connection to a military mission or military environment.

The bill also defines certain terms for purposes of the section.

Perjury and Obstruction of Justice

Inducing False Testimony Under Oath

The bill directs punishment against a person subject to the KCMJ if such person induces another person to take an oath and falsely testify, depose, or make a statement upon such oath. In order for a person to be punished for this conduct:

- The oath will have to be administered as required by law, and by a person that has the authority to do so;

- Upon taking such oath, the other person willfully makes or attests to a false statement that is material to the proceedings; and

- When the statement is made or attested to, the person subject to the KCMJ and the person induced into such conduct do not believe such statement is true.

Obstruction of Justice

The bill directs punishment against a person subject to the KCMJ if such person engages in conduct intending to influence, impede, or otherwise obstruct the due administration of justice.

Duty to Report Offense

The bill directs punishment against a person subject to the KCMJ if such person:

- Knows another person has committed a serious offense; and

- Wrongfully conceals the commission of the offense and fails to make the commission of the offense known to civilian or military authorities as soon as possible.

Duty to Cooperate with Judicial Proceedings

The bill directs punishment against a person subject to the KCMJ if such person wrongfully refuses to qualify as a witness or wrongfully refuses to answer a question after having been directed to do so by a presiding authority in certain judicial proceedings, as specified by the bill.

Search and Seizure

The bill directs punishment against a person subject to the KCMJ if such person knows that one or more persons authorized to make searches and seizures are seizing, about to seize, or are endeavoring to seize property and then destroys, removes, or otherwise disposes of the property with the intent to prevent the seizure of such property.

Obstruction of Pending Administrative Action

The bill directs punishment against a person subject to the KCMJ if such person has reason to believe that an adverse administrative action is pending against any person subject to the KCMJ and either:

- Intentionally acts to influence, impede, or obstruct the conduct of the proceeding; or

- Acts to obstruct the due administration of justice.

Bribery

The bill directs punishment against a person subject to the KCMJ if such person occupies an official position or has official duties and wrongfully asks for, accepts, or receives something of value with the intent to have the person's decision or action influenced regarding an official matter in which the State of Kansas or the United States is interested.

The bill directs punishment against a person subject to the KCMJ if such person wrongfully promises, offers, or gives something of value to a person who occupies an official position or has official duties and intends to influence the decisions or actions of the person regarding an official manner in which the State of Kansas or the United States is interested.

The bill directs punishment against a person subject to the KCMJ if such person occupies an official position or has official duties and wrongfully asks for, accepts, or receives something of value as compensation for or in recognition of services rendered or to be rendered by the person regarding an official matter in which the State of Kansas or the United States is interested.

The bill directs punishment against a person subject to the KCMJ if such person promises, offers, or gives something of value to a person who occupies an official position or who has official duties as compensation for or in recognition of services rendered by such person regarding an official matter in which the State of Kansas or the United States is interested.

Credit Card Fraud

The bill directs punishment against a person subject to the KCMJ if such person, with the knowing intent to defraud and obtain money, property, services, or something of value, uses:

- A stolen credit card, debit card, or other access device;
- A revoked, canceled, or otherwise invalid credit card, debit card, or other access device; or
- A credit card, debit card, or other access device without the authorization of a person whose authorization is required for such use.

The bill defines the terms "access device" and "credit card" for the purposes of this section.

Extortion

The bill directs punishment against a person subject to the KCMJ if such person communicates threats to another person with the intention to obtain something of value or any acquittance, advantage, or immunity.

Breach of Privacy; Forcible Pandering; Indecent Exposure

The bill directs punishment against a person subject to the KCMJ if such person, without legal justification or lawful authorization:

- Knowingly and wrongfully views the private area of another person without the other person's consent and when that other person has a reasonable expectation of privacy;
- Knowingly photographs, videotapes, films, or records by any means the private area of another person without that other person's consent and when that other person has a reasonable expectation of privacy; or
- Knowingly broadcasts or distributes any such recording that the person knew or reasonably should have known was made under circumstances described above.

If a person subject to the KCMJ compels another person to engage in an act of prostitution with any person, the person subject to the KCMJ will be guilty of forcible pandering.

If a person subject to the KCMJ intentionally exposes, in an indecent manner, the genitalia, anus, buttocks, or female areola or nipple, the person will be guilty of indecent exposure.

The bill defines related terms for the purposes of the section.

Retaliation

The bill directs punishment against a person subject to the KCMJ if such person takes or threatens to take an adverse personnel action or withholds or threatens to withhold a favorable personnel action, with the intent to:

- Retaliate against any person for reporting or planning to report a criminal or military offense;
- Retaliate against any person making or planning to make a protected communication; or
- Discourage any person from reporting or planning to report a criminal or military offense.

The bill defines related terms as used in this section.

Application of Other Military Regulations and Instructions

The bill states certain military regulations and instructions could be used to effectuate the purpose and provisions of the KCMJ to the extent they are consistent with the KCMJ.

Administrative Action

The bill states nothing in the KCMJ precludes an administrative action against a person subject to the KCMJ for an offense, military or nonmilitary, as allowed by law or regulation.

Severability

The bill provides that the provisions of the KCMJ are severable, meaning if any portion of the KCMJ were to be held unconstitutional or invalid, such invalidity would not affect other portions of the KCMJ that could be given effect without the invalid portion or application, and the applicability of such other portions of the KCMJ would remain valid and enforceable.

Willful Disobedience

The bill directs punishment against a person subject to the KCMJ if such person willfully disobeys a lawful command of such person's superior commissioned officer.

Amendments to KCMJ

The bill makes various amendments to sections of law in the KCMJ reflecting the reorganization, consolidation, and modernization of language in the new sections created by the bill. [*Note:* Only substantive changes have been included in this Summary.]

The bill also removes all references to, and sections concerning, trial by court-martial. [*Note:* The bill replaces certain references to trial by court-martial with references to punishment at the direction of a commanding officer. Sections in which this would be the only change are not included in this Summary.]

Definitions

The bill substantively updates several definitions used in the KCMJ, for terms including "state military forces," "commanding officer," "state active duty," "duty status other than state active duty," "enemy," and "state judge advocate." The bill also removes the definitions of "military court," "military judge," "record," and "convening authority" from this section and adds definitions of "cadet," "classified information," "day," "military offenses," "national security," "commissioned officer," "pay," "open hearing," "open proceeding," "and "UCMJ."

Persons Subject to the Code

The bill enumerates the circumstances in which a person may be subject to the KCMJ, and provides further direction determining whether subject-matter jurisdiction exists under the KCMJ, replacing law stating that the KCMJ applies to all members of the state military forces who are not under a call or order of the President.

Territorial Applicability

The bill clarifies that the KCMJ applies to all times and places when a person subject to the KCMJ is in a duty status. The bill also states jurisdiction under the KCMJ will not preclude or limit any applicable civilian jurisdiction, with the exception of double jeopardy.

Judge Advocates

The bill removes provisions concerning the appointment and qualifications of judge advocates, and removes provisions providing for assistant judge advocates. The bill also directs that judge advocates make frequent inspections in the field under the supervision of the appropriate Administration of Military Justice.

Apprehension

The bill specifies that no person authorized under the KCMJ to apprehend persons subject to the KCMJ, nor any place authorized to confine or house such apprehended persons, could require payment of any fee, nor charge for receiving, apprehending, confining, restraining, holding, or otherwise housing a person except as otherwise provided by law.

Nonjudicial Punishment

The bill makes several clarifying amendments to the types of disciplinary punishments that may be imposed on persons subject to the KCMJ. The bill specifies that any person subject to a nonjudicial punishment has a right to be physically present during any hearing conducted. The bill also requires that, when a finding of guilt is made and punishment imposed under this

section, a written record be made that includes all testimonial evidence and supporting documentation.

Statutes of Limitations

The bill adds an exception to the general statute of limitations concerning a person's liability for committing an offense when the commission of the offense is not immediately known and not readily discoverable. When such is the case, the statute of limitations will be two years from the date of discovery.

The bill also excludes periods of time in which an accused is absent without authority or fleeing from justice from the period of limitation described above.

The bill specifies that when the United States is at war or the President has declared a national emergency, the applicable statute of limitations will be tolled until three years after the termination of hostilities or national emergency when the offense involves fraud or attempted fraud or in connection with a contract, subcontract, or purchase order involving the war.

Cruel and Unusual Punishment

The bill specifies that punishment by flogging, branding, marking, or tattooing the body is cruel and unusual punishment and is prohibited under the KCMJ.

Maximum Punishment

The bill specifies the maximum fine that may be assessed pursuant to a punishment under the KCMJ could not exceed $2,500.

Missing Movement

The bill adds to the prohibition against missing a movement of a ship, aircraft, or unit to include wrongfully and intentionally jumping into the water from a vessel that is in use by the U.S. Armed Forces or state military forces as an action that may be punished under the KCMJ.

Contempt Toward Officials

The bill expands the list of persons that a person subject to the KCMJ could be punished for using contemptuous words against. Such additions include a secretary of a military department, the Secretary of Homeland Security, the Legislature, or the legislature of any other state.

Improper Conduct with a Prisoner

The bill adds unlawfully drinking any alcoholic beverage with a prisoner as conduct that is punished under the KCMJ.

False Official Statements

The bill specifies punishment will be imposed when any person subject to the KCMJ takes a proper oath and, upon taking such oath, makes or subscribes to a statement that, at the time the oath was administered, the person did not believe to be true.

Wrongful Use of Controlled Substances

The bill specifies that a person subject to the KCMJ will be punished if such person wrongfully possesses, in such person's blood or urine, metabolites of a prohibited substance specified in the section.

Perjury

The bill provides that a person subject to the KCMJ will be punished if such person testifies to any false statement material to the issue or matter of inquiry in any declaration, certificate, verification, or statement.

Disorders and Neglects

The bill specifies that simple assault could be punished under the KCMJ rather than reserved to civil courts.

Authority to Administer Oaths and Act as Notary

The bill amends the list of persons authorized to administer oaths and act as notaries, removing references to judge advocates and specifying such persons who are so authorized under the section will be designated by military regulation or statute.

Complaints of Wrongs

The bill clarifies procedure when any member of the state military forces believes such member was wronged. The bill specifies the complaint will be forwarded to the first general in the member's chain of command, who will be required to investigate and take proper measure for redressing the wrong and send a statement of the complaint to the Adjutant General. The bill specifies that this procedure may not be used when:

- Review is provided specifically by the KCMJ;
- The matter has been taken under the recommendation by an administrative board and where such complainant was afforded the rights of a respondent; or
- Policy, regulation, or instruction specifically authorizes an administrative appeal or similar redress for the matter.

Redress of Injuries to Property

The bill amends a provision governing redress for property damage when an offender cannot be ascertained but the organization to which an offender belongs is known. In this instance, the bill allows damages to be assessed on a proportional basis, using the number of individuals of the organization who were present at the scene when damages were inflicted.

Payment of Fines; Disposition; Confinement for Failure to Pay

The bill updates language concerning the collection of fines under the KCMJ to reflect the removal of punishment by court-martial and specify the manner in which such fines may be paid.

Immunity for Action of Military Courts

The bill removes references to military courts and instead specifies all persons acting under the KCMJ, whether a member of the military or a civilian, have immunity from personal liability for any act or omission related to such person's duties under the KCMJ.

Uniformity

The bill requires information accompanying each punitive article of the UCMJ to be used in the defining and charging of any offense under the KCMJ, to the extent the UCMJ is consistent.

The bill also states the decisions of the various military branch appeals courts will not be binding on proceedings under the KCMJ, but could be used for guidance in determining guilt or punishment of any member of the state military forces subject to the KCMJ.

Emil Joseph Kapaun Memorial; SB 431

SB 431 requires the Capitol Preservation Committee to approve plans to place a permanent memorial honoring the life of Emil Joseph Kapaun. [*Note:* Father Emil Joseph Kapaun (pronounced "ka-pawn") was born in Pilsen, Kansas, and served as a U.S. Army Chaplain in World War II and the Korean War, where he became a prisoner of war and died in captivity. He was awarded the Medal of Honor posthumously in 2013.]

The bill authorizes the Secretary of Administration to receive and expend moneys for the purpose of financing the creation and construction of the memorial and to remit all moneys received for such purpose to the State Treasurer.

The bill establishes the Emil Joseph Kapaun Memorial Fund (Fund) and authorizes the State Treasurer to deposit funds received for the purpose of financing the creation and construction of the memorial in the State Treasury to the credit of the Fund. Expenditures from the Fund are authorized for the creation and construction of the memorial and for other purposes as may be required by the grantor or donor. The bill prohibits the expenditure of public funds for the creation or construction of the memorial.

Veterans Benefits; Distinctive Honorary Military License Plates; HB 2392

HB 2392 modifies the definition of "veteran" and "disabled veteran" to clarify the discharge status (or characterization of service) a member of the Armed Forces must receive to be eligible for certain benefits in Kansas. The bill also authorizes issuance of a 1st Infantry Division and an Armed Service Occupation Medal distinctive license plates.

Modified Definitions Relating to a Veterans Benefits

The bill modifies the definition of "veteran" to mean a person who served in the active military, naval, air, or space service and who, upon release from service, received an honorable discharge or a general discharge under honorable conditions for the following benefit:

- Vietnam War Era medallion, medal, and certificate administered by the Kansas Office of Veterans Services.

The bill modifies the definition of "disabled veteran" to mean the same as "veteran" with the additional requirement that such person incurred or aggravated a disability in the line of active duty and has a certain disability evaluation percentage, for the following benefits:

- A permanent license to hunt and fish in Kansas, provided such person has a service-connected evaluation of 30.0 percent or more;

- Preference in contracts for any job or service for which moneys appropriated are to be expended, provided such a disabled veteran business operates as a Kansas firm or corporation or maintains offices in Kansas; and

- Preference in certain bids for contracts and purchases, provided such person has a service-connected evaluation of 10.0 percent or more.

Distinctive Honorary Military License Plate

The bill authorizes issuance of 1st Infantry Division and Armed Services Occupation Medal distinctive license plates for use on a passenger vehicle or truck registered for a gross weight of 20,000 pounds or less. The bill requires an applicant to furnish proof satisfactory to the Director of Vehicles, Kansas Department of Revenue, of meeting the eligibility requirements for each plate.

The bill would require an applicant to meet the following conditions to be eligible:

- For the 1st Infantry Division license plate:
    - Be currently serving in any unit of the 1st Infantry Division of the U.S. Army, the Fort Riley Garrison, or a unit assigned to the Fort Riley Garrison; or
    - Has separated from the U.S. military, was honorably discharged, and served at least nine months in any unit of the 1st Infantry Division, the Fort Riley Garrison, or a unit assigned to the Fort Riley Garrison; and

- For the Armed Services Occupation Medal license plate:
    - Be a recipient of the Army of Occupation Medal or the Navy Occupation Service Medal.

The bill requires the application for such plates to be made at least 60 days prior to a person's renewal of registration date, on a form provided by the Director of Vehicles.

The license plates are exempt from requirements concerning distinctive license plate fees related to costs for development and issuance of a license plate. Neither type of license plate would be transferable to another person.

The bill authorizes a surviving spouse or other family member to possess the license plate in the event of the death of a person eligible for the license plate. However, the license plate could not be used or displayed on any vehicle.

Military Servicemember and Spouse Occupational Licensing Fee Waiver; HB 2745

HB 2745 amends law on reciprocal occupational licensing for military servicemembers and military spouses to limit its application to only those residing in Kansas or planning to reside in Kansas due to the assigned military station of the individual or their spouse.

The bill also exempts such applicants from all fees for applications for any such credential assessed by the licensing body, including criminal background report fees, whether assessed by the licensing body or another agency, including initial applications and any fees associated with renewal of any credential. The bill specifies that applications for credentials by such applicants are to be considered complete applications without the submission of any such fees.

Kansas Office of Veterans Services; Veterans Claims Assistance Service Grants; Service-connected Disability Evaluations and Determinations; Veterans' Benefits; HB 2760

HB 2760 abolishes the Kansas Commission on Veterans Affairs Office (KCVAO), creates the Kansas Office of Veterans Services (KOVS), and makes other changes relating to the transfer of powers, duties, and functions of KCVAO to KOVS; updates and clarifies certain military definitions; amends law concerning documents required to establish a service-connected disability; amends law concerning federal disability determinations; establishes common definitions of "veteran" and "disabled veteran" in various statutes; and clarifies service-connected disability evaluations. The bill updates the Veterans Claims Assistance Program (VCAP) to include references to the federal Department of Veterans Affairs medical centers and cross accreditation requirements.

Transfer of Powers, Duties, and Functions from the KCVAO to the KOVS

The bill abolishes the KCVAO and the Office of the Director of the KCVAO. All powers, duties, and functions of the agency and the KCVAO Director are transferred to the KOVS and the KOVS Director. The bill renames the KCVAO as the KOVS. The bill deems references to KCVAO in statutes, contracts, or other documents as applicable to the KOVS.

The bill establishes the KOVS within the Executive Branch of government. Under the bill, the KOVS Director must be a veteran who is appointed by the Governor and confirmed by the Senate. The KOVS Director serves in the unclassified service at the pleasure of the Governor and receives an annual salary fixed by the Governor.

The KOVS Director supervises the administration of all budgeting, purchasing, and related management functions of the agency.

The bill confers the responsibilities of the KCVAO to the KOVS. Under continuing law, the KCVAO is responsible for providing information and advice on available veterans programs and services to veterans, their relatives, and their dependents. The programs and services coordinated by the agency include those in the fields of education, health, mental care, economic security, and vocational guidance. The agency is also responsible for operating the Kansas Soldiers' Home and the Kansas Veterans' Home.

The bill also replaces references in continuing law to the KCVAO with references to the KOVS and repeals statutes regarding the establishment of the KCVAO and its duties.

Veterans Claims Assistance Program Service Grant Requirements

The bill replaces references to the obsolete federal Veterans Administration with references to the federal Department of Veterans Affairs (VA). This means that in order to be eligible to participate in the annual VCAP service grant, veterans service organizations (VSOs) must have a presence at the federal VA regional office or medical center in Wichita, as well as each VA medical center operating in Topeka and Leavenworth.

The bill specifies that the training for veterans claims assistance representatives (VCARs) are conducted by qualified trainers, rather than qualified VCARs. An individual who wishes to be an accredited VCAR must provide proof to the KOVS that such individual successfully completed the VA Training, Responsibility, Involvement, and Preparation of Claims course.

[*Note:* Under prior law, the VCAP required the KCVAO to administer annual service grants to eligible VSOs. The service grants are used to train veterans who wish to become accredited VCARs. Accredited VCARs are statutorily authorized to assist other veterans and their dependents in filing claims with the federal government for earned benefits.]

Updates to Definitions

The bill updates and clarifies certain military definitions, as follows.

Active Service

The bill updates the term "military service" to "active service." The term is made applicable to service members from the Space Force, as well as service members from any component of the military reserves and the National Guard of any of the several states and territories, Puerto Rico, and the District of Columbia. "Active service" also includes members of the Army, Navy, Marine Corps, Air Force, and Coast Guard.

Armed Forces

The bill defines a member of the Armed Forces to mean a person performing active service in the Army, Navy, Marine Corps, Air Force, Space Force, Coast Guard, or any U.S. Military Reserve component.

Veteran

The bill updates the definition of the term "veteran" to mean a person who served in the active military, naval, air, or space service and who was discharged or released under conditions other than dishonorable.

Service-connected Disability Documentation

The bill limits the types of documents an agency may require for purposes of determining a veteran's eligibility for benefits related to a service-connected disability.

Definitions

The bill defines the following terms:

- "Service-connected disability" means a disability, or death if such death resulted from the disability, incurred or aggravated in the line of active duty; and

- "Veteran" means a person who served in the active military, naval, air, or space service who was discharged under conditions other than dishonorable.

Enumerated Documentation

The bill allows state agencies and municipalities to request the following documents from a Kansas veteran in order to determine the veteran's eligibility for benefits derived from a service-connected disability:

- A U.S. passport;
- An unexpired Real ID state driver's license;
- A Veteran Health Identification Card issued by VA;
- A Veteran Identification Card issued by the VA;
- A Common Access Card issued by the U.S. Department of Defense (DoD); or
- Any authorized DoD identity card.

The bill prohibits state agencies and municipalities from requesting or demanding a veteran provide any document not enumerated in the bill for purposes of determining such veteran's eligibility for benefits. Similarly, agencies and municipalities also are prohibited from improvising an authentication procedure to determine a Kansas veteran's eligibility for benefits derived from a service-connected disability.

Federal Disability Determinations

The bill requires the federal determinations concerning service-connected disability or death to be probative. [*Note:* "Probative" is a legal term meaning tending to provide or disprove.]

Definitions

The bill defines the following terms:

- "Service-connected disability" means a disability incurred or aggravated in the line of duty in the active military, naval, air, or space service or death resulting from such disability; and

- "Veteran" means a person who served in the active military, naval, air, or space service and was discharged under conditions other than dishonorable.

Federal Disability Determination Reconsiderations

The bill prohibits state agencies and municipalities from reconsidering disability determinations made by the following federal officials:

- Secretary of the Army;

- Secretary of the Navy, when concerning the Navy and Marine Corps;

- Secretary of the Air Force, when concerning the Air Force or Space Force;

- Secretary of Homeland Security, when concerning the Coast Guard;

- Secretary of Health and Human Services, when concerning the Public Health Service;

- Secretary of Commerce, when concerning the National Oceanic and Atmospheric Administration; and

- Secretary of Veterans Affairs.

Prohibited Requests or Demands

The bill prohibits state agencies and municipalities from requesting or demanding that a veteran:

- Submit private health information for the purpose of determining eligibility for disability benefits; or

- Voluntarily seek re-evaluation of existing service-connected disability claims.

Documentation for Verification

The bill authorizes requesting a veteran or their surviving family member to provide certain records documenting the veteran's service-connected status.

Disclosure of Disability

The bill requires a veteran or their family member to disclose the veteran's disability rating under certain conditions.

Establishing Common Definitions of "Veteran" and "Disabled Veteran" and Clarifying Service-connected Disability Evaluations

The bill establishes common definitions of "veteran" and "disabled veteran" for purposes of determining eligibility for state veteran benefits. The bill also clarifies the disability evaluation percentages required for certain state benefits available to disabled veterans.

Definitions

The bill modifies the definitions of "veteran" and "disabled veteran" to clarify, among other things, the discharge status (or characterization of service) a member of the Armed Forces must receive to be eligible for benefits specific to Kansas veterans. [*Note:* The terms "veteran" and "disabled veteran" have been defined in a variety of ways in prior law.]

The bill modifies certain definitions, as follows:

- "Veteran" means a person who served in the active military, naval, air, or space service and who, upon release from military service, received an honorable discharge or a general discharge under honorable conditions [*Note:* This definition differs from other veteran definitions in the bill and applies to specific benefits.];

- "Disabled veteran" means the same as "veteran," with the additional requirement that such person incurred or aggravated a disability in the line of active duty and has a service-connected disability evaluation percentage pursuant to 38 USC § 1101 *et seq*. or 10 USC § 1201 *et seq*.; and

- "Member of the armed forces" means a person performing active service in the Army, Navy, Marine Corps, Air Force, Space Force, Coast Guard, or any component of the military reserves of the United States.

Under the bill, only an individual who received an honorable discharge or a general discharge under honorable conditions is considered a veteran for purposes of Kansas-specific benefits. [*Note:* A discharge from the Armed Forces is assigned a characterization of service generally categorized as administrative or punitive. Per Army Regulation 135-178, an honorable

service characterization and a general (under honorable conditions) service characterization are two of three distinct types of administrative discharges.]

Benefits for Kansas Veterans

The bill incorporates the modified definitions of "veteran" and "disabled veteran" into statutes concerning Kansas-specific benefits for veterans.

Benefits for Veterans

Under the bill, a person who meets the definition of "veteran" is eligible for the following benefits in continuing law:

- A driver's license with a "veteran" designation, contingent on such person providing a DD form 214 (Certificate of Release or Discharge from Active Duty), NGB [National Guard] form 22 (Report of Separation and Record of Service), or equivalent discharge document showing character of service as honorable or general under honorable conditions;

- A non-driver identification card with a "veteran" designation, contingent on such person providing a DD form 214 (Certificate of Release or Discharge from Active Duty), NGB form 22 (Report of Separation and Record of Service), or equivalent discharge document showing character of service as honorable or general under honorable conditions;

- In-state tuition and fees at an institution of higher education in Kansas, provided that such person meets other specified criteria in law;

- Enhanced protection under the Kansas Consumer Protection Act;

- Preference in governmental employment and promotion;

- Participation in the Persian Gulf War Veterans Health Initiative; and

- Vietnam War Era medallion, medal, and certificate.

Benefits for Disabled Veterans

Under the bill, a person who meets the definition of "disabled veteran" is eligible for the following benefits in continuing law:

- A free license plate, provided that such person has a service-connected evaluation of 50.0 percent or more;

- A permanent license to hunt and fish in Kansas, provided that such person has a service-connected evaluation of 30.0 percent or more;

- Preference in governmental employment and promotion, provided that such person has a service-connected evaluation percentage pursuant to 38 USC § 1101 *et seq*. or 10 USC § 1201 *et seq*.;

- Preference in contracts for any job or service for which moneys appropriated are to be expended, provided that such person has a service-connected evaluation of 10.0 percent or more;

- Preference in certain bids for contracts and purchases, provided that such person has a service-connected evaluation of 10.0 percent or more; and

- Property tax refund pursuant to the Homestead Property Tax Refund Act, provided that such person has a service-connected evaluation of 50.0 percent.

Public Water Supply Systems; SB 331

SB 331 makes various updates in state hazardous waste laws and public water supply systems laws. The bill replaces references to "small quantity generator" with "hazardous waste generated by persons who generate less than the amounts specified" in hazardous waste law, and it removes an exception in the requirements for lead-free pipes and a definition of "lead-free" in the public water supply systems law.

Flexibility in the Use of Water Rights; HB 2634

HB 2634 allows an Intensive Groundwater Use Control Area (IGUCA) plan or Local Enhanced Management Area (LEMA) plan to include flexibility in the use of water rights and amends laws regarding delegation of corrective control enforcement. [*Note:* Both IGUCAs and LEMAs are groundwater management tools with water conservation goals. An IGUCA can be implemented by the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, or upon request of local stakeholders, and it is determined that one or more of five conditions regarding groundwater declines exists in a particular area. LEMAs set goals and control measures for water conservation and are recommended by groundwater management districts (GMDs) and approved by the Chief Engineer.]

The bill allows the Chief Engineer to consider allowing flexibility in the use of water rights, including, but not limited to, multi-year allocations and use in excess of a water right's annual authorized quantity in any given year so long as the overall use of water is reduced during the term of an IGUCA or LEMA.

Statutes had authorized the Chief Engineer to delegate the enforcement of any corrective control provisions ordered for an IGUCA to GMD No. 4 or any city located within the boundaries of that area. The bill removes the reference to GMD No. 4 and allow this action to occur in any GMD.

APPROPRIATION BILLS

SB 28 contains FY 2024 supplemental funding and FY 2025 , FY 2026, FY 2027, and FY 2028 expenditure adjustments for certain state agencies. An overview of the Governor's amended budget recommendations for FY 2023 through FY 2024 and the Omnibus Conference Committee's adjustments to the Governor's amended recommendations are reflected below. The bill will become effective upon publication in the *Kansas Register*. [*Note:* This bill does not include most of the funding for K-12 education, which is separately contained in House Sub. for SB 387.]

SB 339 prohibits the distribution of State Foundation Aid moneys within the budget of the Kansas State Department of Education to a school district that has no students enrolled in and attending a school of such district.

House Sub. for SB 387 makes appropriations for the Kansas State Department of Education for FY 2024, FY 2025, and FY 2026; makes adjustments to the Kansas School Equity and Enhancement Act; establishes the Education Funding Task Force; repeals authorization for the Special Education and Related Services Funding Task Force; and amends various provisions of law related to K-12 education.

SB 438 appropriates $10.0 million in FY 2025 to the State Board of Regents for purposes of implementing the Kansas Blueprint for Literacy. This appropriation includes a proviso establishing certain restrictions.

HB 2551 contains FY 2024 supplemental funding, FY 2025 funding for most state agencies, and FY 2026 expenditures for certain state agencies. [*Note:* This bill does not include funding for K-12 education, which is contained in House Sub. for SB 387.]

TECHNICAL BILLS

SB 27

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

BILLS VETOED BY THE GOVERNOR

House Sub. for SB 37

This bill would have made various changes to income, sales, and property tax law. Specifically, the bill would have:

- Restructured individual income tax brackets and rates to provide for a two-bracket system;
- Exempted Social Security income from the individual income tax;
- Increased the standard deduction and personal exemption amounts;
- Reduced privilege tax rates;
- Abolished the Local Ad Valorem Tax Reduction Fund and County and City Revenue Sharing Fund;
- Increased the amount of the appraised value of residential property exempt from the statewide uniform school finance levy and reduced the mill levy; and
- Accelerated the elimination of the state sales and compensating use tax rate on food and food ingredients and the associated disposition of revenue changes.

House Sub. for SB 172

This bill would have created the Kansas Land and Military Installation Protection Act. The bill would have prohibited foreign principals from countries of concern from acquiring any interest in non-residential real property located within 100 miles of the boundary of any military installation located in Kansas or an adjacent state.

House Sub. for Sub. for SB 232

This bill would have amended law regarding child support guidelines established by the Kansas Supreme Court to require the guidelines to include unborn children. The bill would have also required the Supreme Court to adopt rules that consider the direct medical and pregnancy-related expenses for the mother of an unborn child and the unborn child. The bill would have limited the maximum amount of ordered child support of an unborn child to the direct medical and pregnancy-related expenses of the mother of the unborn child, excluding any costs related to an elective abortion.

House Sub. for SB 233

This bill would have enacted the Forbidding Abusive Child Transitions Act. Among its provisions, the bill stated that a recipient of state funds may not use those funds to provide or subsidize medication or surgery as a treatment for a child's perception of gender or sex that is inconsistent with the child's sex.

House Sub. for SB 271

This bill would have prohibited government agencies from purchasing or acquiring drones whose critical components were produced in a country of concern, or whose critical components were produced or owned by a foreign principal. The bill would have also prohibited state agencies from entering into a contract or agreement to procure final or finished goods or services from certain foreign principals. [*Note:* This prohibition applied only to state agencies, not all governmental agencies, as it applies to the drone portion of the bill.]

SB 434

This bill would have exempted the practice of hair removal by sugaring from the definition of cosmetology. The bill would have also defined "sugaring" and required the addition of infection control techniques for sugaring to an existing Kansas Department of Health and Environment brochure, and required an individual engaged in sugaring to complete and keep the self-test portion of the infection control brochure at the location where the individual is sugaring.

Senate Sub. for HB 2036

This bill would have made various changes to income, sales, and property tax law. Specifically, the bill would have:

- Restructured individual income tax brackets and rates to provide for a two-bracket system;
- Exempted Social Security income from the individual income tax;
- Increased the standard deduction and personal exemption amounts;
- Reduced privilege tax rates;
- Abolished the Local Ad Valorem Tax Reduction Fund and County and City Revenue Sharing Fund;
- Increased the amount of the appraised value of residential property exempt from the statewide uniform school finance levy and reduced the mill levy; and
- Accelerated the elimination of the state sales and compensating use tax rate on food and food ingredients and the associated disposition of revenue changes.

HB 2096

This bill would have enacted the Veterans' Valor Property Tax Relief Act, made changes to the Homeowners' Property Tax Freeze Program, provided for property tax rebates for certain businesses subject to government competition, created a property tax exemption for certain personal property, limited transactions that can be considered valid sales for property tax purposes, modified law related to property valuation notices and

appeals, and increased the tax credit for household and dependent care expenses.

HB 2097

This bill would have enacted the Kansas Film and Digital Media Production Development Act, which would have created nonrefundable income tax credits and a sales tax exemption for qualifying film production activities to incentivize and promote the growth of film and digital media production and industry in Kansas. The bill would have also created sales tax exemptions for certain not-for-profit theaters and the Friends of Cedar Crest Association, and would have created income tax credits related to the employment of Kansas residents who are members in good standing of the Kansas Army or Air National Guard.

HB 2284

This bill would have made various changes to income, sales, and property tax law. Specifically, the bill would have:

- Replaced individual income tax brackets with a single rate of 5.25 percent;
- Exempted Social Security income from the individual income tax;
- Provided annual standard deduction increases by a cost-of-living adjustment;
- Increased the personal exemption amount and provideded for future personal exemption amount increases using a cost-of-living adjustment;
- Reduced privilege tax rates;
- Accelerated the elimination of state sales and compensating use tax on food and food ingredients and the associated disposition of revenue changes; and
- Increased the amount of the appraised value of residential property exempt from the statewide uniform 20-mill school finance levy to $100,000.

HB 2446

This bill would have prohibited municipalities from adopting or enforcing an ordinance, resolution, or regulation that restricts, taxes, imposes a fee upon, prohibits, or regulates the use of auxiliary containers. The bill defined “auxiliary container” as a straw, bag, cup, package, container, bottle, device, or other packaging, without limitation.

HB 2532

This bill would have amended the Kansas Parimutuel Racing Act to require that the tax revenue generated from wagers on historical horse races be directed to two funds, with:

- One-third to be credited to the Kansas Horse Breeding Development Fund; and
- Two-thirds to be credited to the Horse Fair Racing Benefit Fund.

HB 2614

This bill would have amended provisions of election law and the Campaign Finance Act concerning advance voting ballot envelopes, the delivery of advance voting ballots, and corrupt political advertising.

HB 2618

This bill would have amended provisions of election law regarding the Transparency in Revenues Underwriting Elections Act and the crime of false representation of an election official.

BILLS VETOED (Line Item, Appropriations)

SB 28

This bill contains FY 2024 supplemental funding, FY 2025 funding for most state agencies, and FY 2026, FY 2027, and FY 2028 expenditures for certain state agencies. The bill also contains claims against the State.

(Line Item) *Legislature* — Section 26(e) would have allowed the De Soto School District to sell the Countryside Learning Center and retain the proceeds.

(Line Item) *Office of the Attorney General* — Section 32(b) would have added $47,000 from the Kansas Fights Addiction Fund (KFAF) for the Kansas City FullCircle Program, Inc., and would have added language requiring review by the Kansas Fights Addiction Board.

(Line Item) *Kansas Department for Aging and Disability Services (KDADS)* — Section 83(b) would have added $2.5 million from the KFAF to expand infrastructure at Valley Hope in Atchison and $5.0 million from the KFAF to provide substance use disorder services to indigent individuals. Further, it included language requiring review by the Kansas Fights Addiction Board.

(Line Item) *Office of the State Treasurer — BUILD Kansas* — Sections 35(d), 36, 37, and 38 would have amended eligibility criteria and added a match requirement for cities with a population less than 5,000 as of the 2020 census for the Build Kansas Matching Grant program.

(Line Item) *Kansas Corporation Commission* — Section 53(a) would have directed the agency to conduct a feasibility study and create a report concerning a culvert improvement project in

Augusta to address flooding issues surrounding an industrial park.

(Line Item) *Kansas Department of Commerce* — Section 68(a) would have added $500,000 SGF for Youth Career Exploration.

(Line Item) *Kansas Department of Commerce* — Sections 68(n) and 69(d) would have established a university STAR Bond for a university that has obtained approval from the university president, chancellor, or Kansas Board of Regents and the Secretary of Commerce and is located on land either owned by the university or an affiliated organization.

(Line Item) *Kansas Department of Commerce* — Section 68(a) would have created a pilot program to recruit new home-based child care providers.

(Line Item) *Kansas Department of Commerce* — Section 68(c) would have added $5.0 million from the State Highway Fund for the Kansas Air Service Development Incentive program for grants to primary airports. Further, it would have directed the Department of Commerce to form a selection committee, limited awards to single commercial service airports to no more than $1.0 million, and required all grant moneys to be deposited in an interest-bearing escrow account.

(Line Item) *KDADS — Mental Health Intervention Team* — Section 83(a) would have moved the Mental Health Intervention Team pilot program from the Kansas State Department of Education to KDADS.

(Line Item) *KDADS* — Section 83(w) would have created a work group to study opening rehabilitation codes to other provider types and to provide a report of the findings to the 2025 Legislature.

(Line Item) *KDADS* — Section 83(aa) would have prohibited the agency from making changes to the Targeted Case Management program for individuals with intellectual and developmental disabilities without Legislative approval.

(Line Item) *Department for Children and Families* — Section 86(a) would have added $250,000 for Keys for Networking to provide iGRAD for FY 2025 and required Keys for Networking to submit a status report to the legislature detailing the program's use among Kansas foster care children.

(Line Item) *Department for Children and Families* — Section 86(b) would have added $1.8 million from the Temporary Assistance for Needy Families Fund for a matching funds grant

to provide toiletry kits for public schools.

(Line Item) *Kansas State University* — Section 100(a) would have added $1.2 million SGF for a jet at the College of Aviation and $4.0 million SGF for the Central Immersive Training Hub at Kansas State University Salina.

(Line Item) *Emporia State University* — Section 106(a) would have added $9.0 million to the Emporia State Investment Model.

(Line Item) *Kansas Board of Regents* — Section 116(h) would have expanded eligibility criteria for the Kansas Promise Act and Kansas Comprehensive Grant for advanced manufacturing or building trades to include students attending for-profit, private career technical schools.

(Line Item) *Kansas Highway Patrol* — Section 124 would have added $10.0 million from the State Highway Fund for the Central Dispatch facility and a firing range.

House Sub. for SB 387

This bill makes appropriations for the Kansas State Department of Education for FY 2024, FY 2025, and FY 2026; makes adjustments to the Kansas School Equity and Enhancement Act; establishes the Education Funding Task Force; repeals authorization for the Special Education and Related Services Funding Task Force; and amends various provisions of law related to K-12 education.

(Line Item) *School Safety and Security Grants* — Section 2(a) would have required the agency to use the School Safety and Security Grants Fund for grants approved by the Kansas State Board of Education for the acquisition of automated external defibrillators (AEDs), routine maintenance of AEDs, the implementation of firearm detection software that meets certain criteria, and the purchase and installation of security cameras compatible with the specified firearm detection software for FY 2025. It would have also required a dollar-for-dollar match from school districts for any grants.

HB 2551

This bill contains FY 2024 supplemental funding, and FY 2025, FY 2026, and FY 2027 expenditure adjustments for certain state agencies.

(Line Item) *Legislative Coordinating Council* — Sections 8(a) and 9(a) would have required the Legislative Coordinating Council to issue and manage a request for proposal for constituent relationship management software.

(Line Item) *Attorney General* — Section 12(a) would have added $350,000 and 3.0 FTE positions for additional investigators in the

Office of the Medicaid Inspector General.

(Line Item) *Attorney General* — Sections 12(b) and 13 would have delayed enforcement of the Kansas Consumer Protection Act against manufacturers participating in the 340B drug rebate program until the U.S. Supreme Court issued an opinion on related litigation.

(Line Item) *State Treasurer — BUILD Kansas* — Sections 15,16,17, and 18 would have amended the Build Kansas Matching Grant program to allow a community to request funding that would have also been eligible for federal funding requiring a match for FY 2025, FY 2026, and FY 2027.

(Line Item) *Department of Administration* — Section 23(g) would have required the State Employee Health Plan to provide a study on the affordability of employee cost-sharing related to diagnostic and supplementary breast cancer mammograms.

(Line Item) *Department of Commerce* — Section 30(b) would have voided the lapse of $3.0 million SGF for an airport authority payment and deleted $3.0 million from federal American Rescue Plan Act (ARPA) funds.

(Line Item) *Department of Commerce* — Section 31(e) would have transferred $2.0 million from the Attracting Professional Sports to Kansas Fund to the Existing Horse Racing Facility Remodel Fund.

(Line Item) *Kansas Department of Health and Environment* — Section 34(a) would have added language requiring the agency to direct $5.0 million to Ascension Via Christi St.Joseph and NMC Health.

(Line Item) *KDADS* — Section 39(a) would have directed the agency to expend $47,000 for drug abuse and addiction prevention services for youth at Kansas City FullCircle Program, Inc.

(Line Item) *KDADS* — Section 40(a) would have directed the agency to expend $250,000 to expand family on-site visitation and family engagement with residents at EmberHope and $2.5 million for Valley Hope in Atchison.

(Line Item) *KDADS* — Section 41 would have authorized the agency to pursue reimbursement of $2.5 million from Valley Hope in FY 2026 if Valley Hope does not certify that 10.0 percent of the beds at its Atchison facility are provided to Medicaid-eligible individuals.

(Line Item) *Kansas State Department of Education* — Section 45(d) would have directed the agency to use $1.0 million ARPA State Fiscal Recovery Fund funds or other federal Elementary and Secondary School Emergency Relief money for a youth career exploration program (HirePaths).

(Line Item) *Kansas State University* — Section 49(b) and (c) would have authorized bonding authority of $34.0 million, all from special revenue funds, including a 15.0 percent match of raised funds for capital improvement projects for the dairy facility at the Manhattan campus.

(Line Item) *Board of Regents* — Section 54(e) would have expanded eligibility of the Promise Act Scholarship to include allied health professions.

BILLS VETOED BY THE GOVERNOR, BUT OVERRIDDEN

SB 473 — This bill amends the Kansas Code of Criminal Procedure to allow a notice to appear to serve as a valid complaint and amends law related to appearance bonds made in district courts.

HB 2098 — This bill creates a sales tax deduction for certain motor vehicle transactions, provides for manufacturer's coupons to be excluded from the sales price for sales tax purposes, and creates several sales tax exemptions.

Senate Sub. for HB 2436 — This bill creates the crime of coercion to obtain an abortion and creates a special sentencing rule that will apply to persons convicted of certain crimes against a victim with the intent to compel an abortion.

HB 2465 — This bill enacts the Adoption Savings Account Act; establishes modifications to the Kansas adjusted gross income of an individual for contributions to an adoption savings account; amends the adoption tax credit; enacts the Pregnancy Resource Act that provides a tax credit for certain contributions to certain pregnancy resource centers and residential maternity facilities; and enacts a sales tax exemption for pregnancy resource centers and residential maternity facilities.

HB 2583 — This bill amends the crime of inflicting harm, disability, or death to certain law enforcement animals to include police horses, increases penalties for inflicting harm that results in disability or death to these animals, and specifies the restitution available for a violation of the crime.

HB 2648 — This bill makes various changes to the process for the adoption of administrative rules and regulations.

HB 2749

This bill amends reporting requirements for abortions performed in Kansas.

(Line Item, Appropriations)

SB 28

This bill contains FY 2024 supplemental funding, FY 2025 funding for most state agencies, and FY 2026, FY 2027, and FY 2028 expenditures for certain state agencies. The bill also contains claims against the State.

(Line Item) *Adjutant General's Department* — Sections 29(b), 120(a), and 121(a) adds $15.7 million SGF for a Southwest Border Mission in FY 2024 and language directing the agency to respond to a request from the State of Texas and collaborate with the Governor to deploy troops.

(Line Item) *Office of the State Treasurer* — Section 35(a) adds $2.0 million SGF to the Pregnancy Compassion Awareness Program to continue the statewide program to provide resources for pregnancy support centers, adoption assistance, and maternity homes.

(Line Item) *KDADS* — Section 83(dd) prohibits KDADS from carrying a waitlist of more than 2,000 individuals for the Physical Disability waiver and requires the agency to submit an estimate of the cost as part of their FY 2026 budget submission.

(Line Item) *KDADS* - Section 83(ee) prohibits KDADS from carrying a waitlist of more than 4,800 individuals for the Intellectual and Developmental Disability waiver and requires the agency to submit an estimate of the cost as part of their FY 2026 budget submission.

(Line Item) *University of Kansas Medical Center* — Section 112(a) adds $750,000 for Family Residency programs, including the Smoky Hill Family Medicine Residency, Ascension Via Christi Family Medicine Residency, and Wesley Family Medicine Residency programs.

(Line Item) *Kansas Board of Regents* — Section 116(a) adds $2.2 million SGF for the Kansas Osteopathic Scholarship.

(Line Item) *Adjutant General's Department* — Section 121(a) adds $50,000 SGF for shooting team grants available to Kansas Air and Army National Guard shooting teams for ammunition, equipment, and travel to competitions.

SUBJECT INDEX

Abortion
Abortion Reporting; HB 2749....3
Coercion to Obtain an Abortion; Senate Sub. for HB 2436....1

Administrative Rules and Regulations
Adoption Savings Account Act; Adoption Tax Credit Increases; Pregnancy Resource Act; Pregnancy Resource Center and Residential Maternity Facility Sales Tax Exemption; HB 2465....317
Adoption of Administrative Rules and Regulations; HB 2648....303
Banking Code Amendments; Enacting the Kansas Money Transmission Act and the Kansas Earned Wage Access Services Act; HB 2560....137
Certification, Licensing, and On-site Inspections; HB 2784....193
Commercial Driver's Licenses: Military Even Exchange Program and Federal Drug and Alcohol Clearinghouse Program; SB 462....325
Deferred Maintenance Funding at Postsecondary Institutions; SB 18....79
EMERGE Program; Cardiac Emergency Response Plans; SB 19....80
Elevator Safety Act Updates; House Sub. for SB 143....262
KMBA and UCCC Modernization—Amendments, Relocation of Mortgage Business Provisions; Senate Sub. for HB 2247....124
Kansas Pesticide Law and Kansas Chemigation Safety Law; HB 2607....10
Microbrewery Self-distribution; Senate Sub. for HB 2124....16
Printing and Distribution of Certain State Publications; HB 2615....302
Public Safety Answering Points; HB 2690....265
Regulation of PEOs Moves Under the Secretary of State; HB 2790....33
Underground Injection Control Wells; HB 2525....8

Adoption
Adoption Savings Account Act; Adoption Tax Credit Increases; Pregnancy Resource Act; Pregnancy Resource Center and Residential Maternity Facility Sales Tax Exemption; HB 2465....317
SOUL Family Legal Permanency Option; HB 2536....44
Termination of Parental Rights, Adoption Notice; HB 2549....220
Uniform Nonparent Visitation Act; HB 2675....50

Adult Care Homes
Certification, Licensing, and On-site Inspections; HB 2784....193
Parental Consent for Minor Health Care; No Patient Left Alone Act; Rural Emergency Hospital Licensure; Authorized Activities of Emergency Medical Responders; House Sub. for SB 287....182

Aging
Appropriations; SB 28....279
Protect Vulnerable Adults from Financial Exploitation Act; Kansas Contract for Deed Act, Restrictive Covenants; HB 2562....173

Agriculture and Natural Resources
Changes to the Kansas Wildlife and Parks Commission; HB 2530....9
Flexibility in the Use of Water Rights; HB 2634....364
Income, Property, and Sales Tax; Miscellaneous Provisions; SB 410....309
Kansas Agricultural Remediation Fund; HB 2477....7

Kansas Open Records Act Exceptions Continued; House Sub. for SB 349.....294
Kansas Pesticide Law and Kansas Chemigation Safety Law; HB 2607.....10
Protection of Agricultural and Research Facilities; Livestock Branding; Senate Sub. for HB 2047.....6
Public Water Supply Systems; SB 331.....364
Riley and Crawford Counties Unincorporated Area Nuisance Abatement Acts; Emergency Medical Services; SB 384.....223
Underground Injection Control Wells; HB 2525.....8
Underground Storage Tank Operating Permits; SB 336.....6

Alcohol and Drugs

Amendments to the Kansas Fights Addiction Act; SB 307.....16
Amendments to the Uniform Controlled Substances Act; Emergency Medication Kits in Schools; HB 2547.....189
Commercial Driver's Licenses: Military Even Exchange Program and Federal Drug and Alcohol Clearinghouse Program; SB 462.....325
Kansas Open Records Act Exceptions Continued; House Sub. for SB 349.....294
Microbrewery Self-distribution; Senate Sub. for HB 2124.....16

Boards, Commissions, and Committees

Amendments to the Kansas Fights Addiction Act; SB 307.....16
Changes to the Kansas Wildlife and Parks Commission; HB 2530.....9
Child Death Records—Child Death Review Board and Coroner; HB 2629.....48
Children's Cabinet—Imagination Library Book Gifting Program; SB 195.....41
Crime Victims Compensation; HB 2781.....78
Executive Session for Drainage Districts; HB 2587.....227
Filling Commission Vacancies Caused by Creating New Districts; HB 2661.....227
K-12—Education Appropriations and Other Provisions; House Sub. for SB 387.....85
Kansas Blueprint for Literacy and Other Education Provisions; SB 438.....103
Kathy's Bill and State Use Law Committee Extension; SB 333.....292
Law Enforcement Memorial Advisory Committee Membership; HB 2632.....265
Pensions and Investments—Countries of Concern Divestment Act; Working After Retirement; Lump-sum Death Benefit; Alternative Investments Cap; HB 2711.....272
Public Safety Answering Points; HB 2690.....265
Social Work Licensure Compact; HB 2484.....240
State Cybersecurity; House Sub. for SB 291.....288
Tax Filing Deadline—ABLE, 529, First-time Home Buyers Account Contributions, 529 Advisory Committee; SB 360.....308
Unemployment Compensation Changes; Sub. for HB 2570.....26
Updates to the Kansas Life and Health Insurance Guaranty Association Act; HB 2787……204

Bonds

Appropriations; SB 28.....279
Provider Use of County Public Right-of-way; HB 2588.....337

Business, Commerce, and Labor

Age Verification for Certain Websites; SB 394.....41
Banking Code Amendments; Enacting the Kansas Money Transmission Act and the Kansas Earned Wage Access Services Act; HB 2560.....137
Business Filings; HB 2660.....30
Commercial Financing Disclosure Act; SB 345.....120
Cost Recovery for Utilities; Energy Generating Facilities, Net Metering; HB 2527.....329

Disability Employment Act Tax Credit; Sheltered Workshop Transition Grant Program; SB 15....306
Elevator Safety Act Updates; House Sub. for SB 143....262
Income, Property, and Sales Tax; Miscellaneous Provisions; SB 410....309
KMBA and UCCC Modernization—Amendments, Relocation of Mortgage Business Provisions; Senate Sub. for HB 2247....124
Kansas Agricultural Remediation Fund; HB 2477....7
Kansas Plane Coordinate System; SB 424....294
Kansas Uniform Securities Act—Violations of Act, Control Person Liability; SB 405....124
Kathy's Bill and State Use Law Committee Extension; SB 333....292
Microbrewery Self-distribution; Senate Sub. for HB 2124....16
Railroad Crossing and Railroad Rolling Stock Minimum Distances; HB 2501....328
Regulation of PEOs Moves Under the Secretary of State; HB 2790....33
Self-service Storage Act Update; HB 2545....25
State Credit Union Code—Amendments; Business Outside of the State, Civil Penalties, and Informal Agreement; HB 2561....171
Unemployment Compensation Changes; Sub. for HB 2570....26
Updates to the Kansas Life and Health Insurance Guaranty Association Act; HB 2787....204
Updating Legislative Post Audit Required Audits; HB 2483....301
Vehicle Dealers Reporting Dates; SB 399....324
Veterans Benefits; Distinctive Honorary Military License Plates; HB 2392....356
Workers Compensation Lifetime Benefit Increase and Other Changes; SB 430....19

Children and Youth

Adding Foster Care Student Eligibility for At-risk Programs; HB 2703....118
Adoption Savings Account Act; Adoption Tax Credit Increases; Pregnancy Resource Act; Pregnancy Resource Center and Residential Maternity Facility Sales Tax Exemption; HB 2465....317
Age Verification for Certain Websites; SB 394....41
Appropriations; SB 28....279
Banking Code Amendments; Enacting the Kansas Money Transmission Act and the Kansas Earned Wage Access Services Act; HB 2560....137
Certification, Licensing, and On-site Inspections; HB 2784....193
Child Advocate Act; Office of the Child Advocate; SB 115....34
Child Death Records—Child Death Review Board and Coroner; HB 2629....48
Children's Cabinet—Imagination Library Book Gifting Program; SB 195....41
Disclosure of Certain Information Related to Child Fatality; HB 2628....48
Distribution of State Foundation Aid in FY 2025; SB 339....85
Enrollment Determination for State Aid; House Sub. for SB 73....84
Juvenile Release Programs; House Sub. for SB 420....43
K-12—Education Appropriations and Other Provisions; House Sub. for SB 387....85
Kansas Blueprint for Literacy and Other Education Provisions; SB 438....103
Parental Consent for Minor Health Care; No Patient Left Alone Act; Rural Emergency Hospital Licensure; Authorized Activities of Emergency Medical Responders; House Sub. for SB 287....182
SOUL Family Legal Permanency Option; HB 2536....44
Termination of Parental Rights, Adoption Notice; HB 2549....220
Uniform Nonparent Visitation Act; HB 2675....50

Civil Matters

Age Verification for Certain Websites; SB 394....41

Amendments to the Kansas Fights Addiction Act; SB 307....16
Civil Asset Forfeiture; SB 458....57
Controlled Substance “Good Samaritan” Protections; House Sub. for SB 419....71
Mental Health—Court-ordered Treatment and Custody; HB 2353....64
Pensions and Investments—Countries of Concern Divestment Act; Working After Retirement; Lump-sum Death Benefit; Alternative Investments Cap; HB 2711....272
Termination of Parental Rights, Adoption Notice; HB 2549....220
Uniform Nonparent Visitation Act; HB 2675....50

Civil Penalties
Age Verification for Certain Websites; SB 394....41
Commercial Financing Disclosure Act; SB 345....120
Income, Property, and Sales Tax; Miscellaneous Provisions; SB 410....309
Kansas Pesticide Law and Kansas Chemigation Safety Law; HB 2607....10
Kansas Uniform Securities Act—Violations of Act, Control Person Liability; SB 405....124
Natural Gas Pipeline Safety; HB 2590....339
Removing DEI from Postsecondary Institutions; HB 2105....115
State Credit Union Code—Amendments; Business Outside of the State, Civil Penalties, and Informal Agreement; HB 2561....171

Civil Rights
Removing DEI from Postsecondary Institutions; HB 2105....115

Compacts
Dentist and Dental Hygienist Compact; HB 2453....228
Social Work Licensure Compact; HB 2484....240

Consumer Affairs
Banking Code Amendments; Enacting the Kansas Money Transmission Act and the Kansas Earned Wage Access Services Act; HB 2560....137
Cost Recovery for Utilities; Energy Generating Facilities, Net Metering; HB 2527....329
Income, Property, and Sales Tax; Miscellaneous Provisions; SB 410....309
KMBA and UCCC Modernization—Amendments, Relocation of Mortgage Business Provisions; Senate Sub. for HB 2247....124
Kansas Office of Veterans Services; Veterans Claims Assistance Service Grants; Service-connected Disability Evaluations and Determinations, Veterans’ Benefits; HB 2760....357
Kansas Uniform Securities Act—Violations of Act, Control Person Liability; SB 405....124
Protect Vulnerable Adults from Financial Exploitation Act; Kansas Contract for Deed Act, Restrictive Covenants; HB 2562....173
Sales Tax Exemptions; HB 2098....315
Self-service Storage Act Update; HB 2545....25
Small Claims Threshold; HB 2604....221
Unclaimed Property; HB 2577....287

Corrections and Juvenile Justice
Appropriations; SB 28....279
Fingerprinting; Criminal History Record Information; SB 491....295
Omnibus Crimes Bill; SB 414....66
Rules of Evidence—Presumption or Inference; House Sub. for SB 318....66
State Budget—Omnibus Appropriations; HB 2551....283

Courts
Attorney Fees for Indigent Defendants; HB 2605....222
Civil Asset Forfeiture; SB 458....57
Coercion to Obtain an Abortion; Senate Sub. for HB 2436....1
Criminal Procedure—Notice to Appear and Appearance Bonds; SB 473....61
Mental Health—Court-ordered Treatment and Custody; HB 2353....64
Restricted Driving Privileges for Failure to Comply With A Traffic Citation; SB 500....217
Rules of Evidence—Presumption or Inference; House Sub. for SB 318....66
SOUL Family Legal Permanency Option; HB 2536....44
Small Claims Threshold; HB 2604....221
Uniform Nonparent Visitation Act; HB 2675....50

Crimes and Criminal Matters
Banking Code Amendments; Enacting the Kansas Money Transmission Act and the Kansas Earned Wage Access Services Act; HB 2560....137
Civil Asset Forfeiture; SB 458....57
Coercion to Obtain an Abortion; Senate Sub. for HB 2436....1
Controlled Substance "Good Samaritan" Protections; House Sub. for SB 419....71
Crime Victims Compensation; HB 2781....78
Criminal Procedure—Notice to Appear and Appearance Bonds; SB 473....61
Disclosure of Certain Information Related to Child Fatality; HB 2628....48
Elevator Safety Act Updates; House Sub. for SB 143....262
Increased Penalties for Harming Law Enforcement Animals; HB 2583....76
Kansas Open Records Act Exceptions Continued; House Sub. for SB 349....294
Levi's Law; HB 2665....77
Omnibus Crimes Bill; SB 414....66
Organized Retail Crime; Encouraging Suicide; Senate Sub. for HB 2144....73
Protection of Agricultural and Research Facilities; Livestock Branding; Senate Sub. for HB 2047....6
Rules of Evidence—Presumption or Inference; House Sub. for SB 318....66

Disability Rights
Disability Employment Act Tax Credit; Sheltered Workshop Transition Grant Program; SB 15....306
Kansas Office of Veterans Services; Veterans Claims Assistance Service Grants; Service-connected Disability Evaluations and Determinations, Veterans' Benefits; HB 2760....357
Kansas Purple Alert Plan; HB 2531....263
Kathy's Bill and State Use Law Committee Extension; SB 333....292
Tax Filing Deadline—ABLE, 529, First-time Home Buyers Account Contributions, 529 Advisory Committee; SB 360....308

Economic Development
Appropriations; SB 28....279
Kansas Open Records Act Exceptions Continued; House Sub. for SB 349....294
Updating Legislative Post Audit Required Audits; HB 2483....301

Education
Adding Foster Care Student Eligibility for At-risk Programs; HB 2703....118
Amendments to the Uniform Controlled Substances Act; Emergency Medication Kits in Schools; HB 2547....189
Appropriations; SB 28....279

Children's Cabinet—Imagination Library Book Gifting Program; SB 195.....41
Deferred Maintenance Funding at Postsecondary Institutions; SB 18.....79
Distribution of State Foundation Aid in FY 2025; SB 339.....85
EMERGE Program; Cardiac Emergency Response Plans; SB 19.....80
Enrollment Determination for State Aid; House Sub. for SB 73.....84
Juvenile Release Programs; House Sub. for SB 420.....43
K-12—Education Appropriations and Other Provisions; House Sub. for SB 387.....85
Kansas Blueprint for Literacy and Other Education Provisions; SB 438.....103
Parental Consent for Minor Health Care; No Patient Left Alone Act; Rural Emergency Hospital Licensure; Authorized Activities of Emergency Medical Responders; House Sub. for SB 287.....182
Removing DEI from Postsecondary Institutions; HB 2105.....115
Renaming Kansas State Polytechnic; SB 481.....115
School Sanitary Inspections—County Home Rule; HB 2754.....227
State Budget—Omnibus Appropriations; HB 2551.....283
Tax Filing Deadline—ABLE, 529, First-time Home Buyers Account Contributions, 529 Advisory Committee; SB 360.....308

Elections
Filling Commission Vacancies Caused by Creating New Districts; HB 2661.....227

Eminent Domain
Solar-powered Generation Equipment; SB 455.....329

Employers and Employees
Appropriations; SB 28.....279
Banking Code Amendments; Enacting the Kansas Money Transmission Act and the Kansas Earned Wage Access Services Act; HB 2560.....137
Disability Employment Act Tax Credit; Sheltered Workshop Transition Grant Program; SB 15.....306
Kansas Office of Veterans Services; Veterans Claims Assistance Service Grants; Service-connected Disability Evaluations and Determinations, Veterans' Benefits; HB 2760.....357
Kathy's Bill and State Use Law Committee Extension; SB 333.....292
Regulation of PEOs Moves Under the Secretary of State; HB 2790.....33
Removing DEI from Postsecondary Institutions; HB 2105.....115
State Cybersecurity; House Sub. for SB 291.....288
Unemployment Compensation Changes; Sub. for HB 2570.....26
Updating Legislative Post Audit Required Audits; HB 2483.....301
Veterans Benefits; Distinctive Honorary Military License Plates; HB 2392.....356
Workers Compensation Lifetime Benefit Increase and Other Changes; SB 430.....19

Energy
Cost Recovery for Utilities; Energy Generating Facilities, Net Metering; HB 2527.....329
Natural Gas Pipeline Safety; HB 2590.....339
Prohibiting Motor Vehicle Energy Source Policies; HB 2783.....328

Environment
Kansas Agricultural Remediation Fund; HB 2477.....7
Kansas Pesticide Law and Kansas Chemigation Safety Law; HB 2607.....10
Underground Injection Control Wells; HB 2525.....8

Estates and Trusts
Kansas Probate Code Notices, Transfer Process; SB 379....217

Federal and State Affairs
Abortion Reporting; HB 2749....3
Approving an Amendment to the Gaming Compact Between the Iowa Tribe of Kansas and Nebraska and the State of Kansas; HR 6045 and SR 1750....119
Cause of Death Certification; HB 2358....188
Civil Asset Forfeiture; SB 458....57
Coercion to Obtain an Abortion; Senate Sub. for HB 2436....1
Emil Joseph Kapaun Memorial; SB 431....355
Kansas Office of Veterans Services; Veterans Claims Assistance Service Grants; Service-connected Disability Evaluations and Determinations, Veterans' Benefits; HB 2760....357
Microbrewery Self-distribution; Senate Sub. for HB 2124....16
Pensions and Investments—Countries of Concern Divestment Act; Working After Retirement; Lump-sum Death Benefit; Alternative Investments Cap; HB 2711....272
Protection of Agricultural and Research Facilities; Livestock Branding; Senate Sub. for HB 2047....6
Reaffirming Support and Cooperation with the State of Israel; HR 6030 and SR 1729....119
Supporting Texas Regarding Illegal Immigration; HR 6035 and SR 1737....119
Unemployment Compensation Changes; Sub. for HB 2570....26

Fees
Banking Code Amendments; Enacting the Kansas Money Transmission Act and the Kansas Earned Wage Access Services Act; HB 2560....137
Business Filings; HB 2660....30
Criminal Procedure—Notice to Appear and Appearance Bonds; SB 473....61
Dentist and Dental Hygienist Compact; HB 2453....228
Distinctive License Plates; SB 359....323
Insurance: Utilization Review Organization Act; Electronic Notice; Financial Reporting of Certain Pools, Notification Requirements, Fees; SB 356....198
Military Servicemember and Spouse Occupational Licensing Fee Waiver; HB 2745....357
Public Safety Answering Points; HB 2690....265
Social Work Licensure Compact; HB 2484....240
Underground Injection Control Wells; HB 2525....8

Financial Institutions
Banking Code Amendments; Enacting the Kansas Money Transmission Act and the Kansas Earned Wage Access Services Act; HB 2560....137
Commercial Financing Disclosure Act; SB 345....120
KMBA and UCCC Modernization—Amendments, Relocation of Mortgage Business Provisions; Senate Sub. for HB 2247....124
Kansas Uniform Securities Act—Violations of Act, Control Person Liability; SB 405....124
Pensions and Investments—Countries of Concern Divestment Act; Working After Retirement; Lump-sum Death Benefit; Alternative Investments Cap; HB 2711....272
Protect Vulnerable Adults from Financial Exploitation Act; Kansas Contract for Deed Act, Restrictive Covenants; HB 2562....173
State Credit Union Code—Amendments; Business Outside of the State, Civil Penalties, and Informal Agreement; HB 2561....171

Fingerprinting
Fingerprinting; Criminal History Record Information; SB 491.....295
Kansas Open Records Act Exceptions Continued; House Sub. for SB 349.....294
Social Work Licensure Compact; HB 2484.....240

Health
Abortion Reporting; HB 2749.....3
Adoption Savings Account Act; Adoption Tax Credit Increases; Pregnancy Resource Act; Pregnancy Resource Center and Residential Maternity Facility Sales Tax Exemption; HB 2465.....317
Amendments to the Uniform Controlled Substances Act; Emergency Medication Kits in Schools; HB 2547.....189
Appropriations; SB 28.....279
Cause of Death Certification; HB 2358.....188
Certification, Licensing, and On-site Inspections; HB 2784.....193
Controlled Substance “Good Samaritan” Protections; House Sub. for SB 419.....71
Dentist and Dental Hygienist Compact; HB 2453.....228
EMERGE Program; Cardiac Emergency Response Plans; SB 19.....80
Institutional Licenses Issued by State Board of Healing Arts; SB 433.....188
Insurance: Utilization Review Organization Act; Electronic Notice; Financial Reporting of Certain Pools, Notification Requirements, Fees; SB 356.....198
Kansas Purple Alert Plan; HB 2531.....263
Mental Health—Court-ordered Treatment and Custody; HB 2353.....64
Parental Consent for Minor Health Care; No Patient Left Alone Act; Rural Emergency Hospital Licensure; Authorized Activities of Emergency Medical Responders; House Sub. for SB 287.....182
Peer Support Counseling; HB 2557.....264
Riley and Crawford Counties Unincorporated Area Nuisance Abatement Acts; Emergency Medical Services; SB 384.....223
School Sanitary Inspections—County Home Rule; HB 2754.....227
Social Work Licensure Compact; HB 2484.....240
State Budget—Omnibus Appropriations; HB 2551.....283
Workers Compensation Lifetime Benefit Increase and Other Changes; SB 430.....19

Housing
Appropriations; SB 28.....279
Tax Filing Deadline—ABLE, 529, First-time Home Buyers Account Contributions, 529 Advisory Committee; SB 360.....308

Insurance
Certification, Licensing, and On-site Inspections; HB 2784.....193
Disability Employment Act Tax Credit; Sheltered Workshop Transition Grant Program; SB 15.....306
Insurance: Utilization Review Organization Act; Electronic Notice; Financial Reporting of Certain Pools, Notification Requirements, Fees; SB 356.....198
Updates to the Kansas Life and Health Insurance Guaranty Association Act; HB 2787……204

Judiciary
Age Verification for Certain Websites; SB 394.....41
Appropriations; SB 28.....279
Attorney Fees for Indigent Defendants; HB 2605.....222
Civil Asset Forfeiture; SB 458.....57

Coercion to Obtain an Abortion; Senate Sub. for HB 2436....1
Controlled Substance “Good Samaritan” Protections; House Sub. for SB 419....71
Crime Victims Compensation; HB 2781....78
Criminal Procedure—Notice to Appear and Appearance Bonds; SB 473....61
Disclosure of Certain Information Related to Child Fatality; HB 2628....48
Increased Penalties for Harming Law Enforcement Animals; HB 2583....76
Juvenile Release Programs; House Sub. for SB 420....43
Kansas Probate Code Notices, Transfer Process; SB 379....217
Levi’s Law; HB 2665....77
Mental Health—Court-ordered Treatment and Custody; HB 2353....64
Omnibus Crimes Bill; SB 414....66
Organized Retail Crime; Encouraging Suicide; Senate Sub. for HB 2144....73
Restricted Driving Privileges for Failure to Comply With A Traffic Citation; SB 500....217
Rules of Evidence—Presumption or Inference; House Sub. for SB 318....66
SOUL Family Legal Permanency Option; HB 2536....44
Small Claims Threshold; HB 2604....221
State Cybersecurity; House Sub. for SB 291....288
Termination of Parental Rights, Adoption Notice; HB 2549....220
Uniform Nonparent Visitation Act; HB 2675....50

Law Enforcement

Appropriations; SB 28....279
Child Advocate Act; Office of the Child Advocate; SB 115....34
Civil Asset Forfeiture; SB 458....57
Coercion to Obtain an Abortion; Senate Sub. for HB 2436....1
Controlled Substance “Good Samaritan” Protections; House Sub. for SB 419....71
Crime Victims Compensation; HB 2781....78
Criminal Procedure—Notice to Appear and Appearance Bonds; SB 473....61
Fingerprinting; Criminal History Record Information; SB 491....295
Increased Penalties for Harming Law Enforcement Animals; HB 2583....76
Law Enforcement Memorial Advisory Committee Membership; HB 2632....265
Social Work Licensure Compact; HB 2484....240
State Budget—Omnibus Appropriations; HB 2551....283
Supporting Texas Regarding Illegal Immigration; HR 6035 and SR 1737....119

Legislature

Adoption of Administrative Rules and Regulations; HB 2648....303
Approving an Amendment to the Gaming Compact Between the Iowa Tribe of Kansas and Nebraska and the State of Kansas; HR 6045 and SR 1750....119
Emil Joseph Kapaun Memorial; SB 431....355
Pensions and Investments—Countries of Concern Divestment Act; Working After Retirement; Lump-sum Death Benefit; Alternative Investments Cap; HB 2711....272
Printing and Distribution of Certain State Publications; HB 2615....302
Supporting Texas Regarding Illegal Immigration; HR 6035 and SR 1737....119
Updating Legislative Post Audit Required Audits; HB 2483....301

Licenses, Permits, and Registrations

Banking Code Amendments; Enacting the Kansas Money Transmission Act and the Kansas Earned Wage Access Services Act; HB 2560....137
Cause of Death Certification; HB 2358....188
Commercial Driver’s Licenses: Military Even Exchange Program and Federal Drug and Alcohol Clearinghouse Program; SB 462....325

Dentist and Dental Hygienist Compact; HB 2453....228
Distinctive License Plates; SB 359....323
Elevator Safety Act Updates; House Sub. for SB 143....262
Institutional Licenses Issued by State Board of Healing Arts; SB 433....188
KMBA and UCCC Modernization—Amendments, Relocation of Mortgage Business Provisions; Senate Sub. for HB 2247....124
Kansas Office of Veterans Services; Veterans Claims Assistance Service Grants; Service-connected Disability Evaluations and Determination, Veterans' Benefits; HB 2760....357
Kansas Pesticide Law and Kansas Chemigation Safety Law; HB 2607....10
Kansas Uniform Securities Act—Violations of Act, Control Person Liability; SB 405....124
Microbrewery Self-distribution; Senate Sub. for HB 2124....16
Military Servicemember and Spouse Occupational Licensing Fee Waiver; HB 2745....357
Provider Use of County Public Right-of-way; HB 2588....337
Regulation of PEOs Moves Under the Secretary of State; HB 2790....33
Restricted Driving Privileges for Failure to Comply With A Traffic Citation; SB 500....217
Social Work Licensure Compact; HB 2484....240
Underground Storage Tank Operating Permits; SB 336....6
Veterans Benefits; Distinctive Honorary Military License Plates; HB 2392....356

Local Government

Appropriations; SB 28....279
Arkansas City and Udall Library Districts; HB 2176....225
Civil Asset Forfeiture; SB 458....57
Criminal Procedure—Notice to Appear and Appearance Bonds; SB 473....61
District Coroner; SB 381....223
EMERGE Program; Cardiac Emergency Response Plans; SB 19....80
Executive Session for Drainage Districts; HB 2587....227
Filling Commission Vacancies Caused by Creating New Districts; HB 2661....227
Fingerprinting; Criminal History Record Information; SB 491....295
Income, Property, and Sales Tax; Miscellaneous Provisions; SB 410....309
Kansas Office of Veterans Services; Veterans Claims Assistance Service Grants; Service-connected Disability Evaluations and Determinations, Veterans' Benefits; HB 2760....357
Parental Consent for Minor Health Care; No Patient Left Alone Act; Rural Emergency Hospital Licensure; Authorized Activities of Emergency Medical Responders; House Sub. for SB 287....182
Prohibiting Motor Vehicle Energy Source Policies; HB 2783....328
Protect Vulnerable Adults from Financial Exploitation Act; Kansas Contract for Deed Act, Restrictive Covenants; HB 2562....173
Provider Use of County Public Right-of-way; HB 2588....337
Public Safety Answering Points; HB 2690....265
Public Water Supply Systems; SB 331....364
Riley and Crawford Counties Unincorporated Area Nuisance Abatement Acts, Emergency Medical Services; SB 384....223
School Sanitary Inspections—County Home Rule; HB 2754....227
Sedgwick County Urban Area Nuisance Abatement Act; SB 362....223
State Budget—Omnibus Appropriations; HB 2551....283

Native Americans

Approving an Amendment to the Gaming Compact Between the Iowa Tribe of Kansas and Nebraska and the State of Kansas; HR 6045 and SR 1750....119

Open Meetings
Executive Session for Drainage Districts; HB 2587....227

Open Records
Banking Code Amendments; Enacting the Kansas Money Transmission Act and the Kansas Earned Wage Access Services Act; HB 2560....137
Business Filings; HB 2660....30
Child Advocate Act; Office of the Child Advocate; SB 115....34
Child Death Records—Child Death Review Board and Coroner; HB 2629....48
Disclosure of Certain Information Related to Child Fatality; HB 2628....48
Executive Session for Drainage Districts; HB 2587....227
Fingerprinting; Criminal History Record Information; SB 491....295
Kansas Open Records Act Exceptions Continued; House Sub. for SB 349....294
Kansas Uniform Securities Act—Violations of Act, Control Person Liability; SB 405....124
Protect Vulnerable Adults from Financial Exploitation Act; Kansas Contract for Deed Act, Restrictive Covenants; HB 2562....173
Social Work Licensure Compact; HB 2484....240

Postsecondary Education
Abolishing the Law Enforcement Training Center Fund; HB 2491....263
EMERGE Program; Cardiac Emergency Response Plans; SB 19....80
Kansas Blueprint for Literacy and Other Education Provisions; SB 438....103
Tax Filing Deadline—ABLE, 529, First-time Home Buyers Account Contributions, 529 Advisory Committee; SB 360....308

Professions and Occupations
Amendments to the Uniform Controlled Substances Act; Emergency Medication Kits in Schools; HB 2547....189
Attorney Fees for Indigent Defendants; HB 2605....222
Cause of Death Certification; HB 2358....188
Commercial Driver's Licenses: Military Even Exchange Program and Federal Drug and Alcohol Clearinghouse Program; SB 462....325
Commercial Financing Disclosure Act; SB 345....120
Criminal Procedure—Notice to Appear and Appearance Bonds; SB 473....61
Dentist and Dental Hygienist Compact; HB 2453....228
Elevator Safety Act Updates; House Sub. for SB 143....262
Fingerprinting; Criminal History Record Information; SB 491....295
Institutional Licenses Issued by State Board of Healing Arts; SB 433....188
Kansas Pesticide Law and Kansas Chemigation Safety Law; HB 2607....10
Peer Support Counseling; HB 2557....264
Regulation of PEOs Moves Under the Secretary of State; HB 2790....33
Social Work Licensure Compact; HB 2484....240

Public Safety
Abolishing the Law Enforcement Training Center Fund; HB 2491....263
Certification, Licensing, and On-site Inspections; HB 2784....193
District Coroner; SB 381....223
EMERGE Program; Cardiac Emergency Response Plans; SB 19....80
Elevator Safety Act Updates; House Sub. for SB 143....262
Fingerprinting; Criminal History Record Information; SB 491....295
Kansas Purple Alert Plan; HB 2531....263

Law Enforcement Memorial Advisory Committee Membership; HB 2632.....265
Organized Retail Crime; Encouraging Suicide; Senate Sub. for HB 2144.....73
Peer Support Counseling; HB 2557.....264
Public Safety Answering Points; HB 2690.....265
Riley and Crawford Counties Unincorporated Area Nuisance Abatement Acts; Emergency Medical Services; SB 384.....223
Sedgwick County Urban Area Nuisance Abatement Act; SB 362.....223
Updating Legislative Post Audit Required Audits; HB 2483.....301

Real Estate
Deferred Maintenance Funding at Postsecondary Institutions; SB 18.....79
Insurance: Utilization Review Organization Act; Electronic Notice; Financial Reporting of Certain Pools, Notification Requirements, Fees; SB 356.....198
K-12—Education Appropriations and Other Provisions; House Sub. for SB 387.....85
KMBA and UCCC Modernization—Amendments, Relocation of Mortgage Business Provisions; Senate Sub. for HB 2247.....124
Kansas Plane Coordinate System; SB 424.....294
Protect Vulnerable Adults from Financial Exploitation Act; Kansas Contract for Deed Act, Restrictive Covenants; HB 2562.....173

Retirement
Pensions and Investments—Countries of Concern Divestment Act; Working After Retirement; Lump-sum Death Benefit, Alternative Investments Cap; HB 2711.....272
Updating Legislative Post Audit Required Audits; HB 2483.....301

Securities
Kansas Uniform Securities Act—Violations of Act, Control Person Liability; SB 405.....124
Pensions and Investments—Countries of Concern Divestment Act; Working After Retirement; Lump-sum Death Benefit; Alternative Investments Cap; HB 2711.....272

Security
Appropriations; SB 28.....279
Pensions and Investments—Countries of Concern Divestment Act; Working After Retirement; Lump-sum Death Benefit; Alternative Investments Cap; HB 2711.....272
Reaffirming Support and Cooperation with the State of Israel; HR 6030 and SR 1729.....119
State Cybersecurity; House Sub. for SB 291.....288

Social Services
Appropriations; SB 28.....279
Certification, Licensing, and On-site Inspections; HB 2784.....193
SOUL Family Legal Permanency Option; HB 2536.....44
Social Work Licensure Compact; HB 2484.....240
State Budget—Omnibus Appropriations; HB 2551.....283
Unemployment Compensation Changes; Sub. for HB 2570.....26

Special Districts
Arkansas City and Udall Library Districts; HB 2176.....225

State Finances
Appropriations; SB 28.....279
Distribution of State Foundation Aid in FY 2025; SB 339.....85

Enrollment Determination for State Aid; House Sub. for SB 73.....84
K-12—Education Appropriations and Other Provisions; House Sub. for SB 387.....85
Kansas Blueprint for Literacy and Other Education Provisions; SB 438.....103
Public Use General Aviation Airport Development Fund Transfers; HB 2498.....327
State Budget—Omnibus Appropriations; HB 2551.....283
State Cybersecurity; House Sub. for SB 291.....288
Unclaimed Property; HB 2577.....287

State Government

Abolishing the Law Enforcement Training Center Fund; HB 2491.....263
Adoption of Administrative Rules and Regulations; HB 2648.....303
Amendments to the Kansas Fights Addiction Act; SB 307.....16
Approving an Amendment to the Gaming Compact Between the Iowa Tribe of Kansas and Nebraska and the State of Kansas; HR 6045 and SR 1750.....119
Attorney Fees for Indigent Defendants; HB 2605.....222
Business Filings; HB 2660.....30
Child Advocate Act; Office of the Child Advocate; SB 115.....34
Civil Asset Forfeiture; SB 458.....57
Cost Recovery for Utilities; Energy Generating Facilities, Net Metering; HB 2527.....329
Crime Victims Compensation; HB 2781.....78
Deferred Maintenance Funding at Postsecondary Institutions; SB 18.....79
EMERGE Program; Cardiac Emergency Response Plans; SB 19.....80
Emil Joseph Kapaun Memorial; SB 431.....355
Fingerprinting; Criminal History Record Information; SB 491.....295
Income, Property, and Sales Tax; Miscellaneous Provisions; SB 410.....309
Kansas Office of Veterans Services; Veterans Claims Assistance Service Grants; Service-connected Disability Evaluations and Determinations, Veterans' Benefits; HB 2760.....357
Kansas Open Records Act Exceptions Continued; House Sub. for SB 349.....294
Kansas Plane Coordinate System; SB 424.....294
Kathy's Bill and State Use Law Committee Extension; SB 333.....292
Mental Health—Court-ordered Treatment and Custody; HB 2353.....64
Military Servicemember and Spouse Occupational Licensing Fee Waiver; HB 2745.....357
Pensions and Investments—Countries of Concern Divestment Act; Working After Retirement; Lump-sum Death Benefit; Alternative Investments Cap; HB 2711.....272
Printing and Distribution of Certain State Publications; HB 2615.....302
Prohibiting Motor Vehicle Energy Source Policies; HB 2783.....328
Protect Vulnerable Adults from Financial Exploitation Act; Kansas Contract for Deed Act, Restrictive Covenants; HB 2562.....173
Sales Tax Exemptions; HB 2098.....315
State Cybersecurity; House Sub. for SB 291.....288
Supporting Texas Regarding Illegal Immigration; HR 6035 and SR 1737.....119
Updating Legislative Post Audit Required Audits; HB 2483.....301

Taxation

Adoption Savings Account Act; Adoption Tax Credit Increases; Pregnancy Resource Act; Pregnancy Resource Center and Residential Maternity Facility Sales Tax Exemption; HB 2465.....317
Arkansas City and Udall Library Districts; HB 2176.....225
Disability Employment Act Tax Credit; Sheltered Workshop Transition Grant Program; SB 15.....306

Executive Session for Drainage Districts; HB 2587....227
Income, Property, and Sales Tax; Miscellaneous Provisions; SB 410....309
Kansas Office of Veterans Services; Veterans Claims Assistance Service Grants; Service-connected Disability Evaluations and Determinations, Veterans' Benefits; HB 2760....357
Microbrewery Self-distribution; Senate Sub. for HB 2124....16
Sales Tax Exemptions; HB 2098....315
Tax Filing Deadline—ABLE, 529, First-time Home Buyers Account Contributions, 529 Advisory Committee; SB 360....308
Unemployment Compensation Changes; Sub. for HB 2570....26

Telecommunications
Insurance: Utilization Review Organization Act; Electronic Notice; Financial Reporting of Certain Pools, Notification Requirements, Fees; SB 356....198
Provider Use of County Public Right-of-way; HB 2588....337
Public Safety Answering Points; HB 2690....265
Updating Legislative Post Audit Required Audits; HB 2483....301

Tort Claims
Small Claims Threshold; HB 2604....221

Transportation and Motor Vehicles
Abolishing the Law Enforcement Training Center Fund; HB 2491....263
Appropriations; SB 28....279
Commemorative Designations; HB 2481....326
Commercial Driver's Licenses: Military Even Exchange Program and Federal Drug and Alcohol Clearinghouse Program; SB 462....325
Distinctive License Plates; SB 359....323
Kansas Plane Coordinate System; SB 424....294
Levi's Law; HB 2665....77
Prohibiting Motor Vehicle Energy Source Policies; HB 2783....328
Provider Use of County Public Right-of-way; HB 2588....337
Public Use General Aviation Airport Development Fund Transfers; HB 2498....327
Railroad Crossing and Railroad Rolling Stock Minimum Distances; HB 2501....328
Restricted Driving Privileges for Failure to Comply With A Traffic Citation; SB 500....217
Riley and Crawford Counties Unincorporated Area Nuisance Abatement Acts; Emergency Medical Services; SB 384....223
Sales Tax Exemptions; HB 2098....315
State Budget—Omnibus Appropriations; HB 2551....283
Vehicle Dealers Reporting Dates; SB 399....324
Veterans Benefits; Distinctive Honorary Military License Plates; HB 2392....356

Uniform Laws
KMBA and UCCC Modernization—Amendments, Relocation of Mortgage Business Provisions; Senate Sub. for HB 2247....124
Kansas Uniform Securities Act—Violations of Act, Control Person Liability; SB 405....124
Uniform Nonparent Visitation Act; HB 2675....50

Utilities
Cost Recovery for Utilities; Energy Generating Facilities, Net Metering; HB 2527....329
Income, Property, and Sales Tax; Miscellaneous Provisions; SB 410....309
Natural Gas Pipeline Safety; HB 2590....339

Prohibiting Motor Vehicle Energy Source Policies; HB 2783....328
Provider Use of County Public Right-of-way; HB 2588....337
Public Safety Answering Points; HB 2690....265
Sales Tax Exemptions; HB 2098....315
Solar-powered Generation Equipment; SB 455....329

Veterans and Military
Commemorative Designations; HB 2481....326
Commercial Driver's Licenses: Military Even Exchange Program and Federal Drug and Alcohol Clearinghouse Program; SB 462....325
Dentist and Dental Hygienist Compact; HB 2453....228
EMERGE Program; Cardiac Emergency Response Plans; SB 19....80
Emil Joseph Kapaun Memorial; SB 431....355
Kansas Air and Army National Guard and Kansas Code of Military Justice Update, State Judge Advocate; SB 292....340
Kansas Office of Veterans Services; Veterans Claims Assistance Service Grants; Service-connected Disability Evaluations and Determinations, Veterans' Benefits; HB 2760....357
Kathy's Bill and State Use Law Committee Extension; SB 333....292
Military Servicemember and Spouse Occupational Licensing Fee Waiver; HB 2745....357
Sales Tax Exemptions; HB 2098....315
Social Work Licensure Compact; HB 2484....240
Supporting Texas Regarding Illegal Immigration; HR 6035 and SR 1737....119
Veterans Benefits; Distinctive Honorary Military License Plates; HB 2392....356
Workers Compensation Lifetime Benefit Increase and Other Changes; SB 430....19

Water
Appropriations; SB 28....279
Flexibility in the Use of Water Rights; HB 2634....364
Public Water Supply Systems; SB 331....364
State Budget—Omnibus Appropriations; HB 2551....283
Underground Injection Control Wells; HB 2525....8

Wildlife and Parks
Changes to the Kansas Wildlife and Parks Commission; HB 2530....9
Veterans Benefits; Distinctive Honorary Military License Plates; HB 2392....356

Workers Compensation
Insurance: Utilization Review Organization Act; Electronic Notice; Financial Reporting of Certain Pools, Notification Requirements, Fees; SB 356....198

NUMERICAL INDEX OF BILLS
House Bills and Resolutions

Bill	Page
Senate Sub. for HB 2047	6
HB 2098	315
HB 2105	115
Senate Sub. for HB 2124	16
Senate Sub. for HB 2144	73
HB 2176	225
Senate Sub. for HB 2247	124
HB 2353	64
HB 2358	188
HB 2392	356
Senate Sub. for HB 2436	1
HB 2453	228
HB 2465	317
HB 2477	7
HB 2481	326
HB 2483	301
HB 2484	240
HB 2491	263
HB 2498	327
HB 2501	328
HB 2525	8
HB 2527	329
HB 2530	9
HB 2531	263
HB 2536	44
HB 2545	25
HB 2547	189
HB 2549	220
HB 2551	283
HB 2557	264
HB 2560	137
HB 2561	171
HB 2562	173
Sub. for HB 2570	26
HB 2577	287
HB 2583	76
HB 2587	227
HB 2588	337
HB 2590	339
HB 2604	221
HB 2605	222
HB 2607	10
HB 2615	302
HB 2628	48
HB 2629	48
HB 2632	265
HB 2634	364
HB 2648	303
HB 2660	30
HB 2661	227
HB 2665	77
HB 2675	50
HB 2690	265
HB 2703	118
HB 2711	272
HB 2745	357
HB 2749	3
HB 2754	227
HB 2760	357
HB 2781	78
HB 2783	328
HB 2784	193
HB 2787	204
HB 2790	33
HR 6030	119
HR 6035	119
HR 6045	119

NUMERICAL INDEX OF BILLS
Senate Bills and Resolutions

Bill	Page
SB 15	306
SB 18	79
SB 19	80
SB 28	279
House Sub. for SB 73	84
SB 115	34
House Sub. for SB 143	262
SB 195	41
House Sub. for SB 287	182
House Sub. for SB 291	288
SB 292	340
SB 307	16
House Sub. for SB 318	66
SB 331	364
SB 333	292
SB 336	6
SB 339	85
SB 345	120
House Sub. for SB 349	294
SB 356	198
SB 359	323
SB 360	308
SB 362	223
SB 379	217
SB 381	223
SB 384	223
House Sub. for SB 387	85
SB 394	41
SB 399	324
SB 405	124
SB 410	309
SB 414	66
House Sub. for SB 419	71
House Sub. for SB 420	43
SB 424	294
SB 430	19
SB 431	355
SB 433	188
SB 438	103
SB 455	329
SB 458	57
SB 462	325
SB 473	61
SB 481	115
SB 491	295
SB 500	217
SR 1729	119
SR 1737	119
SR 1750	119

KANSAS LEGISLATURE

2024 Special Session Summary of Legislation

KLRD

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June 2024

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KLRD

Providing objective research and fiscal analysis for the Kansas Legislature

INTRODUCTION

This publication includes summaries of the legislation enacted by the 2024 Legislature during the 2024 Special Session. The special session commenced on June 18, 2024, and was adjourned that same day.

During the 2024 Special Session, 12 bills were introduced: 8 bills in the Senate and 4 bills in the House. Two of these bills became law (one Senate bill and one House bill).

This publication does not include a summary of any legislation associated with the 2024 Regular Session. That legislation is summarized in a separate publication.

Table of Contents

ECONOMIC DEVELOPMENT: STAR BONDS; HB 2001.....1

TAXATION: TAX REFORM—INCOME AND PROPERTY TAX REDUCTIONS; SB 1.....5

ECONOMIC DEVELOPMENT

STAR Bonds; HB 2001

HB 2001 amends the Sales Tax and Revenue (STAR) Bond program to authorize projects involving major professional sports complexes and provide said projects with additional sources of revenue for bond repayment. The bill also provides enhanced approval authority for the Secretary of Commerce (Secretary) and the Legislative Coordinating Council (LCC) to approve no more than two such STAR Bond projects and allow the Kansas Development Finance Authority (KDFA) to issue special obligation bonds in FY 2025 and FY 2026 for purposes of funding those projects.

STAR Bonds Financing Act

The bill authorizes agreements with one or two major professional sports franchises for the purpose of establishing major professional sports franchise STAR Bond project districts for a major professional sports complex. The bill requires these projects to have a minimum capital investment of $1.0 billion. The authority to establish such projects will sunset on June 30, 2025, with the option of a one-year extension if approved by the LCC.

All provisions of the bill pertain exclusively to STAR Bond projects for a major professional sports complex and are not applicable to other potential STAR Bond projects described in statute.

Definitions

The bill creates the following definitions within the STAR Bonds Financing Act (Act):

- "Major professional sports complex" means a project in the state that includes a stadium of no fewer than 30,000 seats for the purpose of hosting National Football League (NFL) or Major League Baseball (MLB) games and other events or a practice or training facility utilized by a major professional sports franchise. Such projects are authorized to include all buildings, improvements, facilities, or attractions located within the STAR Bond project district; and

- "Major professional sports franchise" means any corporation, partnership, or other entity that owns a team or franchise that is a member of the NFL or MLB and that is located in any state adjacent to Kansas.

The bill also amends the definition of "project costs" to include the cost of a major professional sports complex that would include all costs necessary to implement a STAR Bond project for the development of a major professional sports complex including, but not limited to, costs incurred for the following:

- Construction or renovation of a stadium and other buildings;
- Improvements;
- Structures;
- Facilities;
- Infrastructure improvements;

- Utilities; and
- Related expenses to develop and finance such complex.

Exemptions

The bill allows major professional sports complex STAR Bond projects to include real property that is, or has been, part of another STAR Bond project district. Any outstanding STAR Bonds issued for such other district would have priority for repayment. For these projects, the bill requires developed areas to contain contiguous parcels of real estate.

The bill also exempts these STAR Bond projects from the requirement barring relocation from another area of the state.

Alternate Procedure for Approval

The bill allows a major professional sports complex STAR Bond project to be approved by the Secretary without approval by the city or county in which the project would be located.

In lieu of the city or county approval method contained in the Act, the bill authorizes the Secretary to assume the powers of a city or county, as provided in the Act, necessary to establish and undertake the project. Such powers include changes to the project district, except no public hearing would be required prior to action. Special obligation bonds would be issued by the KDFA. The bill also states that any special obligation bonds issued by the KDFA under the Secretary's authority will not constitute a debt of the State of Kansas.

The bill requires the Secretary to present any proposed agreement for a major professional sports complex STAR Bond project to the LCC for review and approval of the potential agreement. If the LCC does not approve that proposed agreement, the bill authorizes the Secretary to continue negotiations with the major professional sports franchise and submit another proposed agreement for LCC review and approval.

The bill also requires that the LCC review and approval process apply to the local government approval method in statute, if used for a major professional sports complex project, as well as any additional bonds issued following initial approval of the project.

STAR Bond Financing

The bill allows a STAR Bond project involving a major professional sports complex to finance up to 70.0 percent of the total costs of the project. [*Note:* All other STAR Bond projects are limited to 50.0 percent of total costs.] The Secretary is authorized, with approval of the LCC, to request additional special obligation bonds to be issued in an amount exceeding the amount previously approved by the Secretary, limited to not more than 70.0 percent of the additional costs or expansion of the project. The bill prohibits the terms of all special obligation bonds for these projects from exceeding 30 years.

[*Note:* Any special obligation bonds issued by the KDFA for projects approved solely by the Secretary would pledge only state revenues from the above-mentioned revenue sources

from within the confines of the district for purposes of bond repayment unless local revenues are separately pledged by local governments.]

Payment of the special obligation bonds issued by the city, county, or KDFA would be payable from a pledge of the following:

- Any method or combination of methods currently in statute except that the tax increment revenue would include all retail sales tax collected from any business within the STAR Bond district [*Note:* STAR Bond repayment generally excludes sales tax collected from retail automobile sales and caps the amount of increment state sales tax at 90.0 percent.];

- Up to 100.0 percent of revenues derived from the sale of alcoholic liquor collected from consumers purchasing alcoholic liquor within the STAR Bond district [*Note:* This captures the privilege and drink taxes but excludes the gallonage tax charged to producers.]; and

- With approval of the Secretary, moneys from the Attracting Professional Sports to Kansas Fund.

The bill also provides both the Secretary and the participating local unit of government with discretion on determining the base year amount of tax revenue from which the increment tax revenue is calculated. [*Note:* All other STAR Bond districts would continue to calculate the base year of revenue by aggregating the 12 months of sales tax revenue for the district prior to establishment of the district.]

The bill states that, if the major professional sports complex STAR Bond project was unilaterally approved by the Secretary without city or county approval, only the State portions of the aforementioned taxes could be pledged to repayment of the bonds. Should the city or county wish to participate in a Secretary-initiated project, the bill requires the local unit of government to hold a public hearing and pass a resolution or ordinance that pledges the applicable local revenues to the project within 60 days of LCC approval of the project.

The bill also requires any revenues that have been previously pledged to pay one or more STAR bonds to be used to first to satisfy the remaining obligations of the previous bonds. The bill also authorizes the Secretary to approve KDFA's refunding of all or part of any special obligation bonds issued for a project.

Kansas Open Meetings Act and Kansas Open Records Act

The bill grants the LCC Chairperson the discretion to determine when any review, testimony, or discussion regarding proposed agreements for a professional sports complex project could be held in executive session. The bill also requires the vote on the proposed agreement to be made in open session and be limited to an up-or-down vote.

The bill deems a proposed agreement and any associated documentation or testimony to be confidential and not subject to the Kansas Open Records Act until the agreement has been approved and executed. Such confidentiality expires on July 1, 2029, unless reenacted by the Legislature.

State Gaming Revenues Fund

The bill requires that the Director of the Budget and the Director of Legislative Research, on June 25, 2025, and every June 25 thereafter, certify the aggregate of all amounts that have been transferred from the Lottery Operating Fund to the State Gaming Revenues Fund (SGRF). Any moneys in excess of $71.49 million would be transferred on June 30, 2025, and each fiscal year thereafter to the Attracting Professional Sports to Kansas Fund. No moneys would be transferred if the SGRF is found to have $71.49 million or less.

TAXATION

Tax Reform—Income and Property Tax Reductions; SB 1

SB 1 makes various changes to income and property tax law. Specifically, the bill:

- Restructures individual income tax brackets and rates to provide for a two-bracket system;
- Exempts Social Security income from the individual income tax;
- Increases the standard deduction and personal exemption amounts;
- Reduces privilege tax rates;
- Abolishes the Local Ad Valorem Tax Reduction Fund and County and City Revenue Sharing Fund;
- Increases the amount of the appraised value of residential property exempt from the statewide uniform school finance levy;
- Increases the child and dependent care income tax credit; and
- Excludes federal Internal Revenue Code Section 1031 exchange (Section 1031 exchange) sales from being considered valid sales for property valuation purposes.

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

Individual Income Tax Brackets and Rates

The bill restructures the Kansas individual income tax brackets to a two-bracket system, beginning in tax year 2024. For married individuals filing jointly, taxable income of $0 to $46,000 is to be taxed at 5.2 percent, and taxable income of $46,001 and above is to be taxed at 5.58 percent.

For all other filers, taxable income of $0 to $23,000 is to be taxed at 5.2 percent, and taxable income of $23,001 and above is to be taxed at 5.58 percent.

Social Security Benefit Exemption

Beginning in tax year 2024, all Social Security benefits are exempt from Kansas income tax.

Standard Deduction and Personal Exemption Increases

The bill increases the standard deduction amounts from $3,500 to $3,605 for single filing status, $8,000 to $8,240 for married filing status, and $6,000 to $6,180 for head-of-household filing status beginning in tax year 2024.

The bill also increases the personal exemption allowance amount, from $2,250 for all persons on the return to $18,320 for married couples filing joint returns, $9,160 for all other filers, and an additional $2,320 for each dependent listed on the return.

Financial Institutions Privilege Tax Rate Changes

The bill reduces the privilege tax rates applied to financial institutions.

For banks, the normal tax rate is reduced from 2.25 percent to 1.94 percent for tax year 2024 and all years thereafter.

For trust companies and savings and loan associations, the normal tax rate is reduced from 2.25 percent to 1.93 percent for tax year 2024 and all years thereafter.

[*Note:* The surtaxes on financial institutions are not affected by the bill.]

Local Government Transfers

The bill abolishes the Local Ad Valorem Tax Reduction Fund and County and City Revenue Sharing Fund and eliminates statutory transfers from the State General Fund (SGF) to these funds.

School Finance Levy Residential Exemption

The bill increases, beginning in tax year 2024, the amount of residential property exempt from the statewide uniform school finance levy to $75,000 of appraised value.

The bill discontinues the formula to increase the amount of the exemption based upon the statewide average increase in residential valuation over the preceding ten years.

The bill requires a transfer to be made from the SGF to the State School District Finance Fund in the amount of any reduction to the State School District Finance Fund attributable to the residential exemption in excess of $42,049, as certified by the Director of the Budget.

For 2024 only, dates in property tax cycles requiring county clerks to notify taxing entities of certain taxable values and revenue neutral rates are delayed from June 15 to July 1.

Tax Credit for Household and Dependent Care Expenses

The bill increases the tax credit for household and dependent care expenses from 25 percent to 50 percent of the federally allowed amount, beginning in tax year 2024.

Section 1031 Exchange Exclusion from Valid Sales

The bill prohibits the sale price at which a property sells in a Section 1031 exchange from being considered an indicator of fair market value or used in arriving at fair market value for property tax purposes. The bill excludes such sales from being considered valid sales for purposes of the sales ratio study used for measuring tax appraisal accuracy.

[*Note:* A Section 1031 exchange allows a person to postpone paying tax on the gain the person receives from selling a property if they reinvest the proceeds in similar property as part of a qualifying like-kind exchange.]