2016 Summary of Legislation

2016 Special Session Summary of Legislation

Legislative Research Department
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INTRODUCTION

This publication includes summaries of the legislation enacted by the 2016 Legislature. Not summarized are bills of a limited, local, technical, clarifying, or repealing nature, and bills that were vetoed (sustained or overridden). However, these bills are listed beginning on page 187.

During the 2016 Session, 514 bills were introduced: 207 in the Senate and 307 in the House. In addition, 238 Senate bills and 335 House bills were carried over from the 2015 Session, for a grand total of 1,087 bills that were alive during the 2016 Session. Of these 1,087 bills, 112 (10.3 percent) became law: 59 Senate bills and 53 House bills. Further, of the 112 bills becoming law, 107 (95.5 percent) were introduced by committees and 5 (4.5 percent) were introduced by individual legislators.

The Governor vetoed three bills, 3 line items in House Sub. for SB 161 and 2 line items in House Sub. for SB 249. One veto was overridden (House Sub. for SB 280, various property tax provisions). The line item vetoes were sustained.

The *Summary of Legislation* does not include a summary of any legislation associated with the 2016 Special Session. This legislative session commenced on June 23 and concluded June 24, 2016, and is summarized in the attached publication.

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AGRICULTURE AND NATURAL RESOURCES

Re-establishing the Local Food and Farm Task Force; SB 314

SB 314 re-establishes the Local Food and Farm Task Force, which had sunset on December 31, 2015, and establishes a new sunset for the Task Force of July 1, 2017.

Among other provisions, the bill continues the membership of the Task Force, provides for Task Force staffing, and directs the Task Force to prepare a Local Food and Farm Plan to be submitted at the beginning of the 2017 Legislative Session.

The bill also adds language that members of the Task Force attending regular, authorized meetings and requesting reimbursement will be paid mileage as provided in existing law for no more than four meetings. Also, the bill revises directives and adds a new directive for the Task Force to study:

- Identification of financial opportunities, technical support, and training necessary to expand production and sales of locally grown agricultural products (revised);
- Identification of strategies and funding needs to make locally grown foods more accessible (revised); and
- Identification of factors affecting affordability and profitability of locally grown foods (new).

Multi-year Flex Accounts; SB 329

SB 329 requires any approval of an application to change the place of use of a base water right automatically results in a change to the place of use for a multi-year flex account (MYFA) term permit. Prior law allowed the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture to modify a base water right upon application, but if the base water right holder was enrolled in a MYFA term permit, the Chief Engineer was required to dismiss the MYFA term permit and the base water right holder was required to reapply for the MYFA term permit.

Conservation Reserve Enhancement Program; SB 330

SB 330 establishes the Kansas Conservation Reserve Enhancement Program (CREP) in statute. The CREP was first created by the 2007 Legislature and has existed since then by its authorizing language being annually included in appropriations bills.

Operations

The bill requires the Kansas Department of Agriculture (KDA), Division of Conservation (Division), to administer CREP pursuant to agreements with the U.S. Department of Agriculture (USDA) for the purpose of implementing beneficial water quality and water quantity projects concerning targeted watersheds in the enrolled, targeted watersheds. The Division also may request assistance from other states agencies, Kansas State University, local governments, and private entities for implementation of CREP.

Funding

The bill creates the Kansas Conservation Reserve Enhancement Program Fund (Fund) in the State Treasury, which will be administered by the Division. The Division may receive and spend moneys for carrying out the provisions of the bill. Unspent moneys in the Fund will be carried over from one fiscal year to the next. Expenditures from the Fund will be for CREP implementation and will be made in accordance with appropriation acts through vouchers approved by the Secretary of Agriculture or by the Secretary's designee. The Division also may enter into cost-share contracts with landowners resulting in fulfilling specific objectives of projects approved in agreements between USDA and the State.

Program Guidelines

The bill establishes various guidelines for CREP. The guidelines include restrictions on the aggregate total number of acres allowed to be eligible and enrolled in the State and per county, and other restrictions on whole field enrollments and lands already enrolled in the federal Conservation Reserve Program (CRP). Other restrictions will be established with the purpose of meeting water quantity goals, including what constitutes a water right in good standing for purposes of CREP.

Reports

The KDA will be required to submit a report at the beginning of each legislative session to the Senate Committee on Natural Resources and the House Committee on Agriculture and Natural Resources, which describes the program activities for each CREP administered in the State and information on any CREP established with the purpose of meeting water quantity goals. The KDA will be required to submit a report on the economic impact of each specific CREP and economic impacts to businesses located within each specific CREP to both committees every five years, beginning in 2017.

Water Rights and Permits, Division of Water Resources; House Sub. for SB 337

House Sub. for SB 337 amends law regarding water rights and permits, makes changes to the way the Chief Engineer provides notice of program changes or proposed rules and regulations, and authorizes changes to the classification of certain positions.

Water Rights and Permits

The bill amends the section of law dealing with the requirement that owners of water rights or permits to appropriate water for beneficial use must file annual water use permits with the Chief Engineer of the Division of Water Resources (DWR) in the Kansas Department of Agriculture (KDA). Language is added to make it clear that a water right owner could "cause" the water use report to be filed, in addition to the owner filing the report individually.

In addition, the bill subjects an owner of a water right or permit to appropriate water for beneficial use who fails to file a water use report to a civil penalty in an amount not to exceed $1,000 per water right (increased from the prior amount of $250).

Further, the bill adds a provision that permits the Chief Engineer to issue an order indefinitely suspending water rights of water right holders or those holding permits to appropriate water for beneficial use if the water use report has not been filed by June 1 of the calendar year in which it is due, in addition to incurring the civil penalty for failing to submit a water use permit outlined above. In addition to the civil penalty and the authority to issue an order of indefinite suspension of a water right, the Chief Engineer also may require the use of telemetry for documentation purposes.

The bill also makes the provisions of the section of law being amended (KSA 2015 Supp. 82a-732) a part of and supplemental to the Water Appropriations Act.

Notice

The bill creates law that states when the Secretary of Agriculture or the Chief Engineer of the DWR, KDA, proposes rules and regulations that could change an adopted local groundwater management program or impact water use in a groundwater management district (GMD), the Secretary or Chief Engineer shall notify the GMD board of directors in the affected area and provide a copy of the program change or proposed rules and regulations.

Upon receiving the notice, the GMD board of directors shall prepare a response of intended board actions and follow existing GMD law for revising active groundwater management programs.

The DWR shall post all complete applications and all orders issued by the DWR on its official website. The DWR, along with the GMD where the water right is situated, shall directly notify all water right owners with a point of diversion within half a mile, or further if necessary, of a water right pending request or application pursuant to existing law, except for change applications requesting a point of diversion move of 300 feet or less from the currently authorized location.

Chief Engineer Position

The bill also requires the position of Chief Engineer to be a classified position, but the bill will allow the Secretary of Agriculture to convert vacant positions under the Chief Engineer to unclassified positions.

Livestock Brand Law Amendments; HB 2480

HB 2480 enacts new law relating to the livestock brand fee funds within the Kansas Department of Agriculture (KDA) and makes changes to livestock brand law.

Fee Funds

The bill transfers all money in and liability of the Livestock Brand Emergency Revolving Fund and the County Option Brand Fee Fund to the Livestock Brand Fee Fund on July 1, 2016. The Livestock Brand Emergency Revolving Fund and the County Option Brand Fee Fund are abolished.

Changes to the Livestock Brand Law

Definitions. The bill provides, for the purposes of livestock branding, that sheep are not included in the definition of "livestock."

Employees. The bill subjects the appointment of any brand inspectors, special investigators, examiners, deputy assistants, and employees by the Animal Health Commissioner to approval by the Secretary of Agriculture. The bill also permits the Secretary of Agriculture to enter into contractual agreements with the Attorney General with respect to the Kansas brand law.

Brand renewal and inspection. The bill clarifies any brand not renewed within 60 days (previously 120 days) of the end of its registration period will be forfeited and makes the use of a forfeited brand unlawful. The bill changes the brand inspection fee when brand inspection is requested and provided. This fee cannot exceed $0.75 per head for all livestock, a change from the prior fee not to exceed $0.75 for cattle and $0.05 for other livestock. An exemption from the brand inspection fee for cattle consigned to or sold at a public livestock market that have clearance from a county option brand inspection area has been removed. The bill also increases the fee for recording a brand to $30 (previously $15).

Rules and regulations. The bill gives authority to the Animal Health Commissioner to adopt and enforce rules and regulations governing brand inspections and allows brand inspectors and special investigators to aid in the investigations and prosecutions of violations of Kansas livestock laws and rules and regulations.

Brand practices. The bill eliminates the specific language outlining branding to identify livestock with diseases, but still permits such branding on the tailhead of cattle. The bill removes language related to obtaining a permit to use a serial or herd brand in conjunction with a registered brand and also removes the requirement that serial or herd brands be six inches away from recorded brands. The bill adds language allowing brand applicants to denote their use of age, serial, or herd brands on their applications. The bill also prohibits the use of acid or chemicals for branding.

Brand fraud. The bill deems any person who willfully brands, or causes to be branded, any livestock in any unauthorized manner or causes livestock to be falsely branded as to incorrectly designate the disease control identification or owners guilty of a class A misdemeanor. A person

who willfully and knowingly brands or causes to be branded any brand that is not the recorded brand of the owner will be deemed guilty of a non-drug severity level 6, nonperson felony.

Out-of-state brands. The bill amends the law with respect to livestock with brands recognized in other states and brought into the state for feeding or grazing and exempts them from Kansas brand laws for a period of 12 months, increased from 8 months. After that time, the out-of-state brand or a new brand will need to be recorded.

Feedlot brands. The bill removes the requirement in prior law that livestock with feedlot brands be quarantined until released by the feedlot operator for movement to slaughter or by the Animal Health Commissioner through issuance of a permit authorizing movement for grazing purposes.

Repeal of statutes. The bill repeals numerous statutes dealing with such issues as the various funds being combined, branding in an unauthorized manner, and brand inspection areas. The bill continues to permit reciprocity agreements with livestock commissioners or brand inspection agencies in other states or the United States.

Plant Toxicants; Plant Pests; Weights and Measures; HB 2490

HB 2490 amends various laws regarding plant toxicants, plant pests, and weights and measures.

Plant Toxicants and Plant Pests

The bill adds the definition of the term “toxicant” to the definitions of the Plant Pest Act. Under the bill, the term “toxicant” means any chemical, including agricultural chemicals which, if present in unsafe levels, can render a plant or plant product unsafe for human or animal consumption. The definition of the term “plant pest” is amended to include “toxicant” and to include anything “which can cause a threat to public health.”

The bill grants additional authority to the Secretary of Agriculture (Secretary) to quarantine the state or parts of the state when it is necessary to contain a plant pest for the protection of public health. New authority also is given to the Secretary to prevent the spread of a plant pest through quarantine into the state through its movement or transportation.

Weights and Measures

The bill establishes rates the Secretary may charge in conjunction with the testing and proving of weights, measures, and other devices. These rates will vary depending upon the service being provided and will be established in statute. The bill provides an out-of-state rate and an in-state rate for those licensed service companies that have licensed technical representatives performing service work in the state. The bill permits an additional fee for adjustment of any weight, measure, or other device.

The bill also permits the Secretary to charge additional fees for preparing items for shipment. For services not listed in the bill, the Secretary determines the fee to be charged. For any service provided, the bill permits the Secretary to charge a minimum fee of $50 per invoice.

In addition, the bill establishes maximum license application fees for each person desiring to operate and perform weights and measures testing and other services as a company in Kansas. Beginning with the 2017 license year, the Secretary will be authorized, by order, to set those fees with the following maximum amounts:

- Commencing July 1, 2017, the maximum amount will be $100;
- Commencing July 1, 2019, the maximum amount will be $110;
- Commencing July 1, 2021, the maximum amount will be $120; and
- Commencing July 1, 2023, the maximum amount will be $130.

The fees for license renewals will be equal to the license application fees provided for each place of business.

With respect to technical representatives, beginning July 1, 2017, each technical representative who has had ten years of continuous licensure with no administrative enforcement action adjudicated against that representative will be eligible to obtain a three-year license. The bill establishes the three-year license fee at an amount not to exceed $300 and require those technical representatives to complete continuing education. The Secretary will be authorized to promulgate rules and regulations to require technical representatives who have been adjudicated in violation of this legislation or rules and regulations to seek renewal of a license on an annual basis, as well as establish criteria for reinstatement of eligibility for the three-year license. Authority is given to the Kansas Department of Agriculture to charge a fee to the attendees of continuing education seminars in an amount not more than is necessary to cover the expenses incurred by the agency.

Lastly, the bill makes the following changes:

- Eliminates language that had made it unlawful to dispose of any weight, measure, or weighing or measuring device that does not meet state standards;
- Eliminates language that had made it unlawful to possess a weight, measure, or weighing or measuring device that is used for or intended to be used for commercial purposes that does not meet tolerances and specifications; and
- Clarifies in the provisions relating to unlawful acts by service companies or technical representatives that the acts are done “knowingly.”

Use of Sound Science in Agriculture; HR 6045

HR 6045 states the Kansas House of Representatives supports the use of sound science to study and regulate modern agricultural technologies such as crop protection chemistries and genetically engineered or enhanced traits and nutrients. In addition, the resolution states the House opposes legislation or regulatory action, at any level, that may result in unnecessary restrictions on the use of modern agricultural technologies.

A copy of the resolution will be sent to the President of the United States, the President of the U.S. Senate, the Speaker of the U.S. House, and to all the members of the Kansas delegation to Congress, with the request that the resolution be included in the *Congressional Record*.

ALCOHOL AND DRUGS

Microbrewery Licensees, Hard Cider, Residency Requirements; SB 326

SB 326 amends several statutes related to the production of alcohol.

Microbrewery Production Limits

The bill increases the amount of beer that can be manufactured with a microbrewery license, allowing production between 100 and 60,000 barrels of domestic beer in a calendar year for each microbrewery license issued in the state. The bill also specifies that if a licensee has a 10 percent or greater ownership interest in one or more entities that also hold a microbrewery license, the aggregate number of domestic barrels manufactured by all licenses under such common ownership cannot exceed 60,000 barrels. Under prior law, each license allowed the production of between 100 and 30,000 barrels of beer in a calendar year.

The bill specifies that a microbrewery licensee that also is licensed as a club or drinking establishment can sell and transfer domestic beer to that club or drinking establishment. Microbrewery licensees with 10 percent or greater ownership interest in one or more entities that also hold a microbrewery license are allowed to manufacture and transfer domestic beer between the microbrewery licenses with common ownership for storage or sale. Microbrewery licensees also are able to remove hard cider produced by the licensee from the licensed premises for delivery to licensed wine distributors.

Production of Hard Cider

The bill allows a microbrewery to manufacture and distribute not more than 100,000 gallons of hard cider. Under prior law, microbreweries could manufacture only beer.

The bill defines “hard cider” as any alcoholic beverage that:

- Contains less than 8.5 percent alcohol by volume;
- Has a carbonation level that does not exceed 6.4 grams per liter; and
- Is obtained by the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including such beverages containing sugar added for the purpose of correcting natural deficiencies.

The bill requires no less than 30 percent of products used by a microbrewery to manufacture hard cider be Kansas-grown products, except when a lesser proportion is authorized by the Director of Alcoholic Beverage Control. This lesser proportion of Kansas-grown products will be authorized based on the Director’s findings and judgment and will be determined based on the annual production of hard cider.

The bill also amends the definition of "wine" to include hard cider and any other product commonly known as a subset of wine.

Residency Requirements

The bill amends the Liquor Control Act to remove the one-year residency requirement for microbrewery, microdistillery, and farm winery licensees. Microbrewery, microdistillery, and farm winery licensees still are required to be Kansas residents.

The portions of the bill dealing with the production of hard cider become effective on January 1, 2017.

Suspension for DUI Test Refusal or Test Failure; Sub. for HB 2289

Sub. for HB 2289 amends the law concerning a driver's license suspension due to test refusal or test failure. Specifically, the bill requires a law enforcement officer's certification and notice of suspension to inform the person that constitutional issues cannot be decided at the administrative hearing, but may be preserved and raised in a petition for review of the hearing.

At or prior to the time notice of an administrative hearing is sent, the bill requires the Division of Vehicles to issue an order allowing the licensee to review any law enforcement report at the location where it is kept, at a reasonable time designated by the law enforcement agency. Copies of the report can be obtained at a cost of $0.25 per page. Such review and copying already was allowed for video and audio tape.

If a licensee appeals a suspension or restriction of his or her license, notwithstanding a statutory provision limiting issues that may be raised before the court if not raised before the agency, the bill allows the court to consider and determine constitutional issues, including, but not limited to, the lawfulness of the law enforcement encounter, even if such issue was not raised before the agency. Similarly, even if such issue was not raised before the agency, the bill requires the court to consider and determine such issues, if such issue is raised by the petitioner in the petition for review.

CHILDREN AND YOUTH

Juvenile Justice System; SB 367

SB 367 creates and amends law related to the Kansas juvenile justice system, as follows.

Case, Probation, and Detention Length Limits

Effective July 1, 2017, the bill establishes the following overall case length limits for juvenile offenders to remain under the jurisdiction of the court:

- For misdemeanors, up to 12 months;
- For low-risk and moderate-risk offenders adjudicated for a felony, up to 15 months (subject to provision below); and
- For high-risk offenders adjudicated for a felony, up to 18 months (subject to provision below).

There is no overall case length limit for a juvenile adjudicated for a felony that would constitute an off-grid felony or nondrug severity level 1 through 4 felony, if committed by an adult.

If a juvenile is adjudicated for multiple counts, the maximum overall case length is calculated based on the most severe count or any other count at the court's discretion. Multiple adjudicated counts will not be run consecutively. If a juvenile is adjudicated for multiple cases simultaneously, the court shall run those cases concurrently.

Once the overall case length limit expires, the court's jurisdiction terminates and may not be extended.

The court shall establish a specific probation term based on the most serious adjudicated count and the results of the risk and needs assessment, and the probation term may not exceed the overall case length limit. The bill establishes the following probation length limits:

- Low-risk and moderate-risk offenders adjudicated for a misdemeanor and low-risk offenders adjudicated for a felony, up to 6 months;
- High-risk offenders adjudicated for a misdemeanor and moderate-risk offenders adjudicated for a felony, up to 9 months; and
- High-risk offenders adjudicated for a felony, up to 12 months.

Probation may be extended if a juvenile needs time to complete an evidence-based program determined to be necessary based on the results of a validated risk and needs assessment. Probation also may be extended for good cause, as follows:

- For up to one month for low-risk offenders;
- For up to three months for moderate-risk offenders; and
- For up to six months for high-risk offenders.

The bill requires data regarding probation extensions to be recorded and reported quarterly to the Kansas Juvenile Justice Oversight Committee (described below), which is required to study the use and effectiveness of the probation extensions.

Prior to the initial extension, the court is required to find and enter into the written record the criteria permitting extension. Extensions will be granted incrementally and may not exceed the overall case length limit.

The probation term limits do not apply to adjudications for any off-grid crime, rape, aggravated criminal sodomy, or second-degree murder. Offenders with these adjudications may be placed on probation for a term consistent with the overall case length limit.

The court is required to establish a specific term of detention when placing a juvenile in detention, which may not exceed the overall case length limit. There is a cumulative detention limit of 45 days over the course of the offender's case, except there is no cumulative detention limit for juveniles adjudicated for an off-grid felony or nondrug severity level 1 through 4 person felony.

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this summary.]

Graduated Responses for Technical Violations

The bill requires the Kansas Department of Corrections (KDOC) to consult with the Supreme Court in adopting rules and regulations by January 1, 2017, for a statewide system of structured community-based graduated responses for technical probation violations, conditional release violations, and sentence condition violations to be used by community supervision officers. The responses shall include sanctions that are swift and certain to address violations based on the severity of the violation and incentives to encourage positive behaviors, while taking into account the juvenile's risks and needs.

Community supervision officers shall use these responses based upon the results of a risk and needs assessment of the juvenile. A technical probation violation may be considered by the court for revocation only if it is a third or subsequent technical violation, there are prior documented failed responses, and the community supervision officer has determined and documented that graduated responses will not suffice. Unless the juvenile poses a significant risk of physical harm to another or damage to property, the community supervision officer shall issue a summons rather

than request a warrant for such a violation. The statute governing issuance of warrants to take a juvenile into custody is amended, effective July 1, 2017, to reflect this limitation on warrants, to remove a reference to placement, and to specify that the warrant's designation of where the juvenile is to be taken is to be made pursuant to the statute governing the procedure for taking a juvenile into custody.

The community supervision officer responsible for oversight of a juvenile on probation is required to develop a case plan with the juvenile and the juvenile's family. The Department for Children and Families (DCF) and the local board of education may participate in the development of the case plan when appropriate. The case plan shall incorporate the results of the risk and needs assessment, referrals to programs, and documentation of violations and graduated responses, and it shall clearly define the role of each person or agency working with the juvenile. If the juvenile is later committed to the custody of the Secretary of Corrections (Secretary), the case plan will be shared with the juvenile correctional facility (JCF).

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this summary.]

Reintegration Plan

Effective July 1, 2017, if the court places a juvenile outside the home at a dispositional hearing and no reintegration plan is part of the record of the hearing, a written reintegration plan shall be prepared by the person with custody (or, if directed by the court, a community supervision officer) and submitted to the court within 15 days of the initial order of the court. If the persons necessary for the success of the plan do not agree, the person or entity with custody is required to notify the court and the court shall set a hearing.

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this summary.]

Immediate Intervention; Multidisciplinary Team; Alternative Means of Adjudication

Effective January 1, 2017, a court must appoint a multidisciplinary team to review cases where a juvenile fails to substantially comply with the development of the immediate intervention plan. This team may be a standing team or may be appointed for a specific juvenile. The Supreme Court must appoint a multidisciplinary team facilitator in each judicial district, and may appoint a convener and facilitator for a multiple-district multidisciplinary team.

The team facilitator must invite the following to be part of the team: the juvenile; the juvenile's parents, guardians, or custodial relative; the superintendent of schools or designee; a clinician who has training and experience coordinating behavioral or mental health treatment for juveniles, if such clinician is available; and any other person or agency representative who is needed to assist in providing recommendations for the particular needs of the juvenile and family. Any invited person may decline to serve and will incur no civil liability for declining.

Effective January 1, 2017, KDOC must collaborate with the Office of Judicial Administration (OJA) to develop standards and procedures to guide the administration of an immediate intervention process and programs and alternative means of adjudication, including contact requirements,

parent engagement, graduated response and discharge requirements, and process and quality assurance.

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this summary.]

Youth Residential Facilities

Effective January 1, 2018, the Secretary of Corrections may contract for up to 50 non-foster home beds in youth residential facilities for placement of juvenile offenders under certain circumstances specified elsewhere in the bill (and described later in this summary). The Secretary is directed to contract with facilities that have high success rates and that decrease recidivism rates, consider contracting for bed space across the entire state, and give priority to existing facilities that are able to meet the Secretary's requirements.

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this summary.]

Kansas Juvenile Justice Oversight Committee

The bill establishes the Kansas Juvenile Justice Oversight Committee to oversee the implementation of reforms in the juvenile justice system. The Oversight Committee's 19 members are the Governor or designee; one Representative appointed by the Speaker of the House; one Representative appointed by the House Minority Leader; one Senator appointed by the Senate President; one Senator appointed by the Senate Minority Leader; the Secretary of Corrections or designee; the Secretary for Children and Families or designee; the Commissioner of Education or designee; the KDOC Deputy Secretary of Juvenile Services or designee; the KDOC Director of Community-Based Services or designee; two district court judges appointed by the Chief Justice; one chief court services officer appointed by the Chief Justice; one member of the OJA appointed by the Chief Justice; one juvenile defense attorney appointed by the Chief Justice; one juvenile crime victim advocate appointed by the Governor; one member of a local law enforcement agency appointed by the Attorney General; one attorney from a prosecuting attorney's office appointed by the Attorney General; and one member from a community corrections agency appointed by the Governor. The bill requires these appointments be made by September 1, 2016, and the Committee must meet within 60 days of appointment and at least quarterly thereafter. The Committee shall select a chairperson and vice-chairperson, with ten members constituting a quorum. Appointed members of the Committee shall serve two-year terms and be eligible for reappointment. KDOC staff shall provide assistance as requested by the Committee and provide administrative assistance to facilitate the organization of the Committee's meetings.

The Committee is charged with various duties related to the performance, evaluation, and improvement of the juvenile justice system, and it must issue an annual report containing specified information to the Governor, Senate President, Speaker of the House, and Chief Justice on or before November 30, beginning in 2017.

The bill requires KDOC and the Committee to explore methods of exchanging confidential data among all parts of the juvenile justice system under certain conditions and constraints specified by the bill. KDOC is authorized to use grant funds, allocated state funds, or any other accessible

funding necessary to create a data exchange system. All state and local programs involved in the care of juveniles involved in the juvenile justice system or the child in need of care system must cooperate in the development and utilization of such system.

Training

The bill requires KDOC, in conjunction with the OJA, to provide not less than semi-annual training on evidence-based programs and practices. This training is mandatory for all individuals who work with juveniles adjudicated or participating in an immediate intervention, including community supervision officers, juvenile intake and assessment workers, juvenile corrections officers, and any individual who works with juveniles through a contracted organization providing services to juveniles.

OJA must designate or develop a training protocol for judges, county and district attorneys, and defense attorneys who work in juvenile court. OJA must provide annual reports to the Legislature and to the Oversight Committee with data regarding completion of this training, including the number of judges and attorneys listed above who did and did not complete the training.

The Attorney General must collaborate with the Kansas Law Enforcement Training Center and the State Board of Education to promulgate rules and regulations by January 1, 2017, creating skill development training for responding effectively to misconduct in school while minimizing student exposure to the juvenile justice system. Such training must include information on adolescent development, risk and needs assessments, mental health, diversity, youth crisis intervention, substance abuse prevention, trauma-informed responses, and other evidence-based practices in school policing to mitigate student juvenile justice exposure. The superintendent (or designee) of each school district and any law enforcement officer assigned primarily to a school must complete this training.

Immediate Intervention Development / Grants

Effective January 1, 2017, KDOC must create a plan and provide funding to incentivize the development of immediate intervention programs. Funds allocated for such plan may be used only to make grants to immediate intervention programs that adhere to the standards and procedures for such programs developed pursuant to the bill, and must be based on the number of persons served and other requirements established by KDOC. The plan may include requirements for grant applications, organizational characteristics, reporting and auditing criteria, and other eligibility and accountability standards.

The bill adds “community-based alternatives to detention” to the list of purposes for which the Secretary may make grants to counties for juvenile community corrections services.

Funds

The bill renames the Juvenile Detention Facilities Fund the “Juvenile Alternatives to Detention Fund” and changes its purpose from the retirement of debt of facilities for the detention of juveniles or the construction, renovation, remodeling, or operational costs of facilities for the detention of juveniles to the development and operation of community-based alternatives to detention. The definition of “operational costs” is amended to include the costs of operating community-based

alternatives to detention for juveniles. The bill amends statutes related to driver's license exam fees, reinstatement fees for failure to comply with a traffic citation, municipal court costs, and municipal court assessments to reflect the change to the Fund's name.

The bill also creates the Kansas Juvenile Justice Improvement Fund, to be administered by KDOC. All expenditures from the Improvement Fund shall be for the development and implementation of evidence-based community programs and practices for juvenile offenders and their families by community supervision offices, including juvenile intake and assessment, court services, and community corrections. On or before June 30 of each year, the Secretary must determine and certify to the Director of Accounts and Reports the amount in each account of the State General Fund of a state agency that the Secretary has determined is an actual or projected cost savings due to cost avoidance from decreased reliance on incarceration in a JCF or youth residential center (YRC) placement, with a baseline calculated on the cost of incarceration and placement in FY 2015. This certified amount shall then be transferred to the Improvement Fund. Prioritization of moneys from the Fund shall be given to regions demonstrating a high rate of out-of-home placement of juvenile offenders per capita that have few existing community-based alternatives. During FY 2017 and FY 2018, the Secretary shall transfer an amount not to exceed $8,000,000 from appropriated moneys, from any available special revenue fund, or from funds budgeted for the purposes of facilitating the development and implementation of new community placements in conjunction with the reduction in out-of-home placements. The Fund and any moneys transferred pursuant to this section may be used only for the purposes of the section, and the bill states the Legislature's intent that the Fund and Fund moneys remain intact and inviolate for the purposes set forth in this section.

The bill amends statutes governing allotments and percentage reductions by the Governor to exempt the Fund from the provisions of those statutes.

Community Integration Programs

KDOC must develop, for use by the courts, community integration programs for juveniles who are ready to transition to independent living. These programs shall be designed to prepare juveniles to become socially and financially independent from such program.

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this summary.]

Earned Time and Earned Discharge

The statute governing computation of sentence is amended to incorporate the addition of overall case length limits and to require earned time calculations be incorporated in sentence calculation. New law requires the Secretary of Corrections to promulgate rules and regulations by January 1, 2017, regarding earned time calculations for purposes of determining a juvenile's release date.

The Supreme Court must consult with KDOC to establish rules for a system of earned discharge for juvenile probationers, to be applied by all community supervision officers. Earned discharge credits will be awarded to a probationer for each full calendar month of compliance with terms of supervised probation, pursuant to these rules.

Supervision Fee

The bill removes a provision prohibiting early release from supervision until the supervision fee has been paid.

Code for Care of Children Amendments

Effective July 1, 2019, various statutes within the Revised Kansas Code for Care of Children (CINC Code) are amended to remove "juvenile detention facility" (JDF) from the definition of "secure facility." Juvenile detention facilities are removed as a placement option under the CINC Code, unless the child also is alleged to be a juvenile offender and the placement is authorized under the Juvenile Code.

Juvenile Code Amendments

The bill makes numerous amendments to various statutes within the Revised Kansas Juvenile Justice Code (Juvenile Code). [*Note:* Some of the additions and amendments made to the juvenile code by the bill are discussed under other headings related to specific topics, rather than under this heading.]

Definitions

The definitions section of the Juvenile Code is amended to:

- Add definitions for "community supervision officer," "detention risk assessment tool," "evidence-based," "graduated responses," "immediate intervention," "overall case length limit," "probation," "reintegration plan," "secretary," and "technical violation";

- Amend definitions for "institution," "juvenile intake and assessment worker," "juvenile offender," and "risk assessment tool" (changing its title to "risk and needs assessment" and amending the definition);

- Amend various definitions to update statutory references or change references to reflect the assumption of the duties of the Juvenile Justice Authority (JJA) and the Commissioner of Juvenile Justice by KDOC and the Secretary of Corrections, pursuant to 2013 Executive Reorganization Order No. 42; and

- Remove the definition for "sanctions house."

Jurisdiction

Effective July 1, 2017, the statute governing jurisdiction is amended to add the overall case length limit and to remove order of assignment to community corrections as events that will end the court's jurisdiction, and to modify another event from conviction of a new felony while incarcerated in a JCF to conviction of a crime as an adult. The term "aftercare" is changed to "conditional release." The bill replaces a provision prohibiting continued placement of a juvenile as a child in

need of care if adjudicated for a felony or a second or subsequent misdemeanor with a provision requiring the Secretary for Children and Families to address issues of abuse and neglect by parents and prepare parents for the child's return home and requiring court services, community corrections, and KDOC to address the risks and needs of the juvenile offender according to the risk and needs assessment. The Secretary for Children and Families must collaborate with KDOC to furnish services ordered in the child in need of care proceeding during the time of any placement in the custody of the Secretary of Corrections.

Juvenile Offender Information

Effective July 1, 2017, the definition of "juvenile offender information" (for the purposes of reporting to the central repository by juvenile justice agencies) is amended to specify certain data that must be included related to the use of the detention risk assessment tool, individual-level data for juveniles on probation, costs for juveniles on probation, individual-level data regarding juvenile filings, risk and needs assessment override data, violation data for juveniles on probation, and certain information for juveniles in immediate intervention plans.

Juvenile Taken into Custody

Effective January 1, 2017, the statute governing when and how a juvenile may be taken into custody is amended to remove the current authority given a court services officer, juvenile community corrections officer, or other person authorized to supervise juveniles to take a juvenile into custody when there is probable cause to believe the juvenile has violated a term of probation or placement. The authority of these officers to arrest a juvenile or request a juvenile's arrest without a warrant for violation of a condition of release is removed and replaced with authority to request a warrant by giving the court a written statement that the juvenile has violated a condition of conditional release from detention or probation for the third or subsequent time and that the juvenile poses a significant risk of physical harm to another or damage to property. An existing provision directing that a juvenile taken into custody be brought to an intake and assessment worker, before the court, or to another designated official or facility is replaced with a provision directing that the juvenile be brought to the custody of the juvenile's parent or other custodian, unless there are reasonable grounds to believe such action would not be in the best interests of the child or would pose a risk to public safety or property. If the juvenile cannot be so delivered, the officer may issue a notice to appear or contact and deliver the juvenile to an intake and assessment worker for completion of the intake and assessment process. Provisions giving certain officials and workers discretionary authority to release the juvenile in the absence of court order or upon completion of the intake and assessment process are changed to make release mandatory. A provision allowing a person 18 years of age or older taken into custody for a juvenile offense to be detained in jail if detention is necessary is changed to permit such detention only if the person is eligible for detention and all suitable alternatives have been exhausted.

This statute is further amended by adding provisions allowing a law enforcement officer who detains a juvenile who is not immediately taken to juvenile intake and assessment services (intake and assessment) to serve a written notice to appear on the juvenile that includes specified information, including the location and phone number of the intake and assessment office where the juvenile will need to appear. The juvenile or a parent or guardian must contact the intake and assessment office specified in the notice within 48 hours, excluding weekends and holidays. Before release, the juvenile must give a written promise to call within the specified time by signing the notice. The officer shall retain the original notice and a copy shall be given to the juvenile and

a parent or guardian, and then the juvenile shall be released. The officer must cause a complaint to be filed with juvenile intake and assessment services charging the crime stated in the notice to appear, with a copy to be provided to the district or county attorney. If the juvenile fails to contact intake and assessment as required in the notice to appear, intake and assessment must notify the district or county attorney. The bill allows the notice to appear and the complaint to be provided to the juvenile in a single citation.

Criteria for Detention

Effective January 1, 2017, the existing criteria for detention and removing a child from the custody of a parent are replaced with the following criteria: a court may not order removal from a parent's custody without first finding that a detention risk assessment has assessed the juvenile as detention-eligible, or there are grounds to override the results of the detention risk assessment and the court finds probable cause that community-based alternatives to detention are insufficient to secure the presence of the juvenile at the next hearing (as shown by the record) or protect the safety of another person or property. The court must state the basis for these findings in writing. Community-based alternatives to detention may include release on a promise to appear; release to a parent, guardian, or custodian upon the youth's assurance; release with reasonable restrictions; release to a voluntary or mandatory court-ordered community supervision program; or release with electronic monitoring with various levels of restriction. Placement in a juvenile detention center is prohibited where it is due solely to a lack of supervision alternatives or service options; a parent avoiding legal responsibility; a risk of self-harm; contempt of court; violation of a valid court order; or technical violations of conditional release, unless there is probable cause the juvenile poses a significant risk of harm to others or damage to property, or the applicable graduated responses or sanctions protocol allows such placement.

Placement in Jail

Effective January 1, 2017, the statute prohibiting placement in a jail except under certain specified circumstances is amended to make it subject to the statutes governing criteria for detention and procedures when a juvenile is taken into custody. Under the provisions of this bill, those statutes permit placement in a jail only for a person over the age of 18 who is eligible for detention, when all suitable alternatives have been exhausted. The statute also is amended to remove a reference to youth residential facilities.

Extended Detention; Hearings

Effective July 1, 2017, the statute governing extended detention and detention hearings is amended to narrow the justification for extended detention to the criteria listed in the statute setting forth the criteria for detention. The bill adds detention risk assessment tool results to the evidence that may be considered by the court at the detention hearing and requires the court to record any reasons for overriding a detention risk assessment tool score. A provision allowing temporary custody where the court determines detention is not necessary but release to the custody of a parent would not be in the best interests of the juvenile is removed. A provision is added requiring a detention review hearing at least every 14 days that a juvenile is in detention, except for juveniles charged with an off-grid felony or nondrug severity level 1 through 4 felony.

First Appearance and Immediate Intervention

Effective January 1, 2017, the statute governing the first appearance is amended to require that a juvenile appearing without an attorney be informed of the right to be offered an immediate intervention.

Immediate Intervention

Effective January 1, 2017, the statute governing immediate intervention programs is amended to replace a provision allowing a county or district attorney to adopt a policy and establish guidelines for an immediate intervention program with a requirement that the director of juvenile intake and assessment services collaborate with the county or district attorney to adopt a policy and establish guidelines for an immediate intervention process, which may include information on offenders beyond those required by the statute. The court, county or district attorney, director, and other relevant individuals or organizations must develop local programs for certain purposes. (Under prior law, the court, county or district attorney, and director were allowed to develop local programs at their discretion.) The list of purposes for such programs is amended to include direct referral of cases to immediate intervention, rather than to certain other programs; require juvenile intake and assessment services, rather than the county or district attorney, to adopt policies and guidelines for issuance of summons; allow immediate intervention program providers to directly purchase services for the juvenile and juvenile's family; and remove conditions on an intake and assessment worker's release of a juvenile prior to a detention hearing.

The statute is further amended by removing limitations on eligibility for immediate intervention programs and a provision regarding a stipulation of facts. A provision is added requiring a juvenile who goes through the intake and assessment process be offered the opportunity to participate in an immediate intervention program and avoid prosecution if the juvenile is charged with a misdemeanor or unlawful voluntary sexual relations, has no prior adjudications, and the offer is made pursuant to guidelines developed under this statute. A juvenile with fewer than two prior adjudications may also participate in such a program if referred for immediate intervention by the county or district attorney after review of the case to determine if the case should be referred for immediate intervention or designation for alternative means of adjudication. The county or district attorney must consider any recommendation of a juvenile intake and assessment worker, court services officer, or community corrections officer.

A juvenile referred to immediate intervention must work with court services, community corrections, juvenile intake and assessment services, or any other designated entity to develop an immediate intervention plan, which may be supervised by any of these entities or unsupervised. The county or district attorney's office is not required to supervise juveniles participating in an immediate intervention program. The plan may last no longer than six months from the date of referral, unless it requires completion of a mental health or substance abuse evidence-based program that extends longer, in which case the plan may be extended up to two additional months. Upon satisfactory compliance with the plan, the juvenile shall be discharged and the charges dismissed at the end of the plan period. If the juvenile fails to satisfactorily comply with the plan, the case will be referred to a multidisciplinary team for review within seven days, and the team may revise and extend the plan or terminate the case as successful. The plan may be extended for no more than four additional months. If the juvenile fails to satisfactorily comply with the revised plan, the intake and assessment worker, court services officer, or community corrections officer

overseeing the immediate intervention shall refer the case to the county or district attorney for consideration.

Prosecution as an Adult and Extended Juvenile Jurisdiction Prosecution

The statute governing prosecution as an adult and extended juvenile jurisdiction is amended to limit the option to designate a proceeding as an extended jurisdiction juvenile prosecution (EJJP) to cases involving an off-grid felony or a nondrug severity level 1 through 4 person felony. A provision placing the burden of proof on the juvenile to rebut EJJP in certain cases is removed. The bill replaces a provision requiring good cause be shown to prosecute a juvenile as an adult with a requirement that the presumption that a juvenile is a juvenile be rebutted by a preponderance of the evidence. The age for adult prosecution of a juvenile is raised from 12 to 14. The bill removes existing presumptions that a juvenile is an adult based upon certain ages, crime severity levels, or other factors. Provisions allowing a juvenile to be bound over to the district judge where there is probable cause a felony has been committed and attaching authorization for prosecution as an adult to future prosecutions upon conviction are removed.

The statute governing sentencing for EJJP and options upon violation of a condition of a juvenile sentence under EJJP is amended to stay the execution of an adult criminal sentence on the condition the juvenile substantially comply with the juvenile sentence, rather than on the condition the juvenile not violate the juvenile sentence. A provision allowing revocation of the stay and juvenile sentence without notice is removed, and a revocation hearing is required in all cases.

Other statutes are amended to reflect the changes to EJJP.

Post-Adjudication Orders and Hearings

The statute governing post-adjudication orders and hearings is amended to require the court to order one or more of the tools listed in the section unless information from a risk and needs assessment is available. The bill adds a provision giving the court authority to compel an assessment by the Secretary for Aging and Disability Services if a psychological or emotional evaluation of the juvenile indicates the juvenile requires acute inpatient mental health or substance abuse treatment, and the results of this assessment may inform a treatment and payment plan pursuant to the same eligibility process for non-court-involved youth. The bill requires a summary of the results from a risk and needs assessment be provided to the court post-adjudication and predisposition to be used to inform supervision levels. OJA and KDOC must adopt a single, uniform risk and needs assessment to be used across the state. Cutoff scores to determine risk levels for juveniles shall be established by OJA and the Secretary, in consultation with the Oversight Committee, and training on the assessment is required for all administrators. The bill requires data to be collected on the results of the assessment to inform a validation study on the Kansas juvenile justice population to be conducted by June 30, 2020.

Sentencing Alternatives

Effective July 1, 2017, the statute governing sentencing alternatives is amended to require a sentencing alternative be imposed for a fixed period (which may not extend beyond the overall case length limit) pursuant to the placement matrix and the probation terms set by the bill. A

provision regarding findings and determinations made pursuant to statutes repealed by the bill is removed.

The sentencing alternatives are amended as follows:

- The probation alternative is made subject to the new probation provisions established by the bill and requires any juvenile placed on probation be supervised according to the results of the risk and needs assessment. Placement of juveniles to community corrections for probation supervision is limited to juveniles who are determined to be moderate, high, or very high risk on an assessment using the cutoff scores established by the Secretary and OJA;

- The alternative to place the juvenile in the custody of a parent or other suitable person is amended to exclude placement in a group home or other licensed child care facility;

- The alternative to place the child in the custody of the Secretary of Corrections for placement and permanency planning is amended to sunset on January 1, 2018;

- The sanctions house alternative is changed to commitment to detention for no longer than 30 days for a violation of a non-technical condition of sentence; and

- The alternative to commit the juvenile to confinement in a JCF is amended to allow placement in a JCF or a youth residential facility. (Placement in a youth residential facility is subject to a rebuttable presumption created in the placement matrix statute, discussed below.) This alternative also is amended to require the judge to make a written finding that the juvenile poses a significant risk of harm to another or damage to property. The juvenile must otherwise be eligible for commitment under the placement matrix, and an order for a period of conditional release is changed from mandatory to the court's discretion. Conditional release is limited to a maximum of six months and subject to graduated responses. A provision requiring a permanency hearing within seven days after the juvenile's release is removed.

The required use of a risk assessment tool is expanded to all sentencing, and the bill requires the results of the assessment be used to inform orders made pursuant to the placement matrix or the new probation provisions. Provisions related to commitment to a sanctions house are changed to provisions for detention. Commitment to detention is limited to violation of sentencing conditions where all other alternatives have been exhausted, and the court must find the juvenile poses a significant risk of harm to another or damage to property, is charged with a new felony offense, or violates conditional release. Detention will not be permitted for solely technical violations of probation, contempt, a violation of a valid court order, to protect from self-harm, or due to any state or county failure to find adequate alternatives. Cumulative detention use is limited to a maximum of 45 days and the overall case length, pursuant to the new provisions of the bill set forth above.

Provisions are added to this section allowing the court to order a short-term alternative placement of a juvenile in an emergency shelter, therapeutic foster home, or community integration program if the juvenile has been adjudicated of aggravated human trafficking, rape, commercial sexual exploitation of a child, sexual exploitation of a child, aggravated indecent liberties with a

child (if the victim is less than 14 years of age), or an attempt of one of those offenses, and the victim resides in the same home as the juvenile; a community supervision officer in consultation with DCF determines an adequate safety plan (including the physical and psychological well-being of the victim) cannot be developed to keep the juvenile in the same home; and there are no relevant child in need of care issues that would permit a case to be filed under the CINC Code. The presumptive term of commitment shall not extend beyond three months and the overall case length, but may be modified. If a child is placed outside the child's home under this provision, and no reintegration plan is made a part of the hearing records, a written reintegration plan must be prepared and submitted to the court within 15 days of the initial order of the court.

Finally, a provision is added to this section requiring the court to calculate the overall case length limit and enter this limit into the written record when one or more of the sentencing options in the section are imposed.

Modification of a Sentence

The statute governing modification of a sentence is amended to make any modified sentence subject to the overall case length limit created by the bill. Provisions setting forth the procedure for a court to rescind an order granting custody to a parent are replaced with a provision allowing the court, if it determines there is probable cause to believe that the juvenile is a child in need of care, to refer the matter to the county or district attorney to file a child in need of care petition and to refer the family to DCF for services. A provision is added allowing the court to authorize participation in a community integration program, if it finds the juvenile needs a place to live but there is not probable cause that the child is a child in need of care, or if the child is emancipated or over the age of 17.

Placement Matrix

Effective July 1, 2017, the placement matrix for commitment to a JCF is amended to require a written finding before such placement that the juvenile poses a significant risk of harm to another or damage to property. A departure sentence provision is removed, and the term of commitment is made subject to the overall case length limit.

The serious offender I category is amended to remove nondrug severity level 5 and 6 person felonies and drug severity level 1 through 3 felonies and place these into a new serious offender II category, for which an offender may be committed for a term of 9 to 18 months with no aftercare.

The existing serious offender II category becomes serious offender III, and the permissible term of commitment for this category is lowered from 9-18 months to 6-12 months. Aftercare is removed and commitment is allowed only if a juvenile is assessed as high-risk.

The existing serious offender III category becomes serious offender IV, and the permissible term of commitment is lowered from 9-18 months to 6-12 months. Aftercare and departure provisions are removed and a commitment is allowed only if a juvenile is assessed as high-risk.

The chronic offender I category is amended to lower the maximum permissible term from 18 to 12 months, remove aftercare and departure provisions, and allow commitment only if a juvenile is assessed as high-risk.

The chronic offender II and III categories are removed.

The bill establishes a rebuttable presumption that all offenders in the chronic offender category and offenders between 10 and 14 years of age in the serious offender II, III, or IV categories shall be placed in the custody of the Secretary for placement in a youth residential facility instead of placement in a JCF. The presumption may be rebutted by a finding on the record that the juvenile offender poses significant risk of physical harm to another.

Conditional release provisions are amended to allow the court to order a period of conditional release limited to six months and subject to graduated responses, with a presumption upon release that the juvenile shall be returned home, unless the case plan recommends a different reentry plan. The bill removes commitment to a JCF as an option upon violation of the requirements of conditional release and changes a reference to "sanctions" to "detention."

The bill removes the definition of "placement failure" and a provision allowing a juvenile committed to a JCF to be adjudicated to a consecutive term of imprisonment for an offense committed while in the facility.

A provision requiring the Secretary to work with the community is broadened in scope from community placements for chronic offender III to development of evidence-based practices and programs to ensure the JCF is not frequently utilized.

Probation or Placement Condition Violations

Effective July 1, 2017, the statute governing the procedure upon violation of condition of probation or placement is amended to require any report filed by the county or district attorney, the current custodian of the juvenile offender, or the victim of the offense to be filed with the assigned community supervision officer, rather than with the court. The community supervision officer would then review the report before filing to determine whether it is eligible for review by the court. The statute is amended to reflect the requirement for probable cause to believe the juvenile poses a significant risk of physical harm to another or damage to property before a warrant may be issued. Some references to "placement" are removed. The bill's overall case length limit and limits on court review for technical violations are incorporated into the statute. A procedure for removing a juvenile from the custody of a parent is removed.

Departure Sentencing

Effective July 1, 2017, the statute governing departure sentence procedure is amended to limit its application to juveniles sentenced to a JCF as a violent offender and to incorporate by reference the departure sentence limits and provisions contained in the new law regarding overall case length limits and the amendments to the sentencing placement matrix. Accordingly, the bill removes the existing departure limits contained in this section. The bill requires the judge to enter the substantial and compelling reasons for a departure into the written record.

Commitment to a JCF

Effective January 1, 2017, the statute governing commitment to a JCF is amended to add a provision requiring a case plan be developed, with input from the juvenile and the juvenile's

family, for every juvenile sentenced to a JCF. For a juvenile committed for violating a condition of sentence, the case plan developed with the community supervision officer shall be revised to reflect the new disposition. DCF, the local school district in which the juvenile offender will be residing, and community supervision officers may participate in the development or revision of the case plan, when appropriate, and the case plan shall incorporate the results of the risk and needs assessment and the program and education to complete while in custody. The case plan must clearly define the role of each person or agency working with the juvenile. The case plan shall include a reentry section, detailing services, education, supervision, or any other elements necessary for a successful transition, as well as information on reintegration of the juvenile into the juvenile's family or, if reintegration is not viable, another viable release option. For a juvenile to be placed on conditional release, the case plan shall be developed with the community supervision officer.

Conditional Release Procedure

Effective July 1, 2017, the statute governing conditional release procedure is amended to allow the person in charge of a JCF to include a specified period of time to complete conditional release, if such release has previously been ordered. A reference to "case management officer" is changed to "supervision officer." A court reviewing the notice of a proposed conditional release must review the terms of any case plan. A provision applicable to acts committed before July 1, 1999, is removed.

Failure to Obey Conditions of Release

Effective July 1, 2017, the statute governing failure to obey conditions of release is amended to incorporate the new prohibition on court consideration of such failure until a third or subsequent failure. The bill requires referral from the supervising officer before the county or district attorney may file a report with the court, and adds a requirement that the juvenile's history of violations be included in the report. The bill removes the option for the court to order, upon finding a condition of release has been violated, that the juvenile be returned to the JCF to serve the incarceration and aftercare term.

Discharge from Commitment

Effective July 1, 2017, the statute governing discharge from commitment is amended to incorporate the maximization of the overall case length limit as a condition requiring discharge of the juvenile by the Secretary.

Notification of Pending Release

Effective July 1, 2017, the statute governing notification of pending release and the procedure by which a county attorney, district attorney, or the court may move to determine if the juvenile should continue to be retained is amended: the bill changes the determination to be made at such hearing from whether the juvenile should be retained to whether the juvenile should be placed on conditional release, if not previously ordered by the court. If the court orders a period of conditional release following the hearing, the supervision of the juvenile shall be limited to six months of conditional release and subject to the overall case length limit. A definition of "maximum term of imprisonment" is removed, as it will not be needed under the new procedures.

Alternative Means of Adjudication

Effective July 1, 2017, the statute governing alternative means of adjudication is amended to change the eligibility for adjudication under the section from a juvenile committing a misdemeanor to a juvenile with fewer than two adjudications. The term "diversion" is changed to "immediate intervention," and a provision is added allowing a juvenile designated for alternative adjudication to be referred to an immediate intervention program. The bill removes a provision allowing the court, in an alternative adjudication proceeding, to remove a juvenile from the home and place the child in the temporary custody of the Secretary for Children and Families or any person, other than the child's parent, willing to accept temporary custody. A reference to "placement failure" is removed from a provision regarding use of the adjudication on a subsequent offense.

Further Juvenile Code Statutes Repealed

Effective July 1, 2017, the bill repeals statutes allowing removal of a juvenile from custody of a parent.

Schools

Effective July 1, 2017, the School Safety and Security Act is amended to require boards of education to include in their annual school safety and security reports information regarding arrests and referrals to law enforcement or juvenile intake and assessment services made in connection to criminal acts the school is required to report under continuing law. The bill also adds a requirement that the data in the report include an analysis according to race, gender, and any other relevant information.

The bill further amends the Act to direct the State Board of Education (SBOE) to require that the superintendent of schools (or designee) in each school district develop, approve, and submit to the SBOE a memorandum of understanding developed in collaboration with relevant stakeholders (including law enforcement agencies, the courts, and the county and district attorneys), establishing clear guidelines for referral of school-based behaviors to law enforcement or the juvenile justice system, with the goal of reducing such referrals and protecting public safety. The SBOE must provide an annual report to KDOC and OJA compiling school district compliance and summarizing the content of each memorandum of understanding.

Statutory provisions governing reporting of certain student behavior to law enforcement, reporting of certain criminal behavior on school property or at a school-supervised activity, powers of campus police officers, and reporting of inexcusable absences from school are amended to make such provisions subject to the terms of the memorandum of understanding.

Juvenile Intake and Assessment

Effective January 1, 2017, the statute governing the juvenile intake and assessment system is amended to require a juvenile intake and assessment worker (worker) to make both release and referral determinations once a juvenile is taken into custody. The bill specifies the worker may collect required information either in person or via two-way audio or audio-visual communication, clarifies that information collected shall be the results from a standardized detention risk assessment tool rather than "a standardized risk assessment tool," and adds "if detention is being considered for

the juvenile." The list of required information is amended to add "results of other assessment instruments as approved by the Secretary." The bill removes a provision requiring the worker to believe release of the child to a parent's, legal guardian's, or other appropriate adult's custody is in the best interests of the child and would not be harmful before making such release. The bill specifies additional non-exclusive conditions that may be imposed on conditional release and changes an existing condition from "inpatient treatment" to "outpatient treatment." Stay in a shelter facility or a licensed attendant care center is limited to a maximum of 72 hours.

Language requiring the Supreme Court to establish a juvenile intake and assessment system is removed, as the system has been established.

The bill adds immediate intervention programs to the possible referrals by the worker and specifies in the continuing option to refer to the county or district attorney that such referral may be made with or without a recommendation for consideration for alternative adjudication or immediate intervention.

The bill replaces a provision allowing the Commissioner of Juvenile Justice to adopt rules and regulations regarding local creation of risk assessment tools with a provision requiring the Secretary of Corrections, in conjunction with OJA, to develop, implement, and validate a statewide detention risk assessment tool. The assessment is required for each youth under consideration for detention and may be conducted only by a trained worker. The Secretary and OJA shall establish cutoff scores to determine eligibility for placement in a JDF or for referral to a community-based alternative to detention. Data regarding the use of the tool must be collected and reported. The bill requires the assessment to include an override function that may be approved by the court for use under certain circumstances so that the worker or the court may override the assessment score to direct placement in a short-term shelter facility, a community-based alternative to detention, or a JDF. The override must be documented, include a written explanation, and receive approval from the director of the intake and assessment center or the court. If a juvenile is eligible for detention or referral to a community-based alternative to detention, the person with detention authority will retain discretion to release the juvenile if other, less restrictive measures would be adequate.

The bill requires every worker be trained in evidence-based practices, including risk and needs assessment, individualized diversions, graduated responses, family engagement, trauma-informed care, substance abuse, mental health, and special education.

Juvenile Corrections Advisory Boards

The statute governing the membership of juvenile corrections advisory boards is amended to add to the membership a juvenile defense representative, who shall be a practicing juvenile defense attorney in the judicial district and be selected by the judge of the district court who is assigned the juvenile court docket. The requirements of the boards are amended to add adherence to the goals of the Juvenile Code and coordination with the Oversight Committee created by the bill.

The bill creates new law requiring the boards to annually consider the availability of treatment programs, programs creating alternatives to incarceration for juvenile offenders, mental health treatment, and the development of risk assessment tools (if they do not currently exist) for use in determining pretrial release and probation supervision levels. Each board shall provide an annual

report by October 1 to KDOC and the Oversight Committee created by the bill detailing the costs of programs needed in the board's judicial district to reduce the out-of-home placement of juvenile offenders and improve the recidivism rate of juvenile offenders.

Technical Amendments

Throughout the bill, technical amendments are made to update or correct statutory cross-references, remove irrelevant dates, and update references to reflect the assumption of the duties of the JJA and the Commissioner of Juvenile Justice by KDOC and the Secretary of Corrections, pursuant to 2013 Executive Reorganization Order No. 42.

Host Families Act; Family Law Code—Domestic Violence Offender Assessment and Certified Batterer Intervention Program; Medicating of a Child; Access to Child in Need of Care Files; Human Trafficking; Sexual Exploitation of a Child; Children in Need of Care; Juvenile Offenders; SB 418

SB 418 establishes the Host Families Act, amends the Family Law Code with regard to use of a domestic violence offender assessment and certified batterer intervention program; amends law related to the medicating of a child and access to files in child in need of care proceedings; and creates and amends law related to human trafficking, sexual exploitation of a child, children in need of care, and juvenile offenders.

Host Families Act

The bill establishes the "Host Families Act" (Act). The Act allows a child placement agency or other Kansas charitable organization working under an agreement with an agency to establish a program in which it coordinates with private organizations to provide temporary care of children by placing a child with a host family. Such programs must include screening and background checks for potential host families that are the same as those required by the Secretary for Children and Families for family foster home licensing, and a host family will not receive payment other than reimbursement for actual expenses of providing the temporary care. The bill requires the placement of a child into such a program be voluntary and establishes that such placement shall not be considered an out-of-home placement by the State, shall not supersede any order under the Code for Care of Children (CINC Code) or any other court order, and shall not preclude any investigation of suspected abuse or neglect.

A parent may place a child into a program established under the Act by executing a power of attorney delegating to a host family any powers regarding the care and custody of the child, except the power to consent to marriage or adoption, the performance or inducement of an abortion, or the termination of parental rights to the child. The power of attorney may not be executed without the consent of all individuals with legal custody of the child. The power of attorney may not exceed one year in duration but may be renewed for one additional year.

A "serving parent," defined by the Act to include a parent under one of several specified military or other governmental service obligations, may delegate powers for a period longer than one year if on active duty service, but the term of delegation may not exceed the term of active duty service plus 30 days.

The delegation of powers shall not deprive any parent of any parental or legal authority regarding the care and custody of the child; deprive any non-delegating parent of any parental or legal authority, if such parent's rights have not otherwise been terminated or relinquished; or affect any parental or legal authority otherwise limited by a court order. A parent executing a power of attorney under the Act shall have the authority to revoke or withdraw the power of attorney at any time. Upon such withdrawal or revocation, the child must be returned to the parent as soon as reasonably possible. The execution of a power of attorney under the Act shall not be evidence of abandonment, abuse, or neglect as defined in the CINC Code.

The Kansas Judicial Council is directed to create a power of attorney form consistent with the Act, and a power of attorney shall be legally sufficient if the wording complies substantially with the Judicial Council form.

During any child protective investigation by the Department for Children and Families (DCF) that does not result in an out-of-home placement due to abuse of a child, DCF is authorized and encouraged to provide information to the parent or custodian about respite care, voluntary guardianship, or other support services for families in crisis, including organizations operating programs under the Act. DCF shall have discretion in recommending programs, organizations, and resources to the parent or custodian.

Additionally, DCF is authorized to work with families with financial distress, unemployment, or homelessness or experiencing other family crises by detailing available community resources, including respite care, voluntary guardianship under the Act, and information regarding agencies and organizations operating programs under the Act.

Domestic Violence Offender Assessment and Certified Batterer Intervention Program

The bill amends the Family Law Code statute governing factors considered in determination of child custody, residency, and parenting time to allow the court to order a parent to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and to order the parent to follow all recommendations made by such program.

The bill makes technical amendments to this statute to ensure consistency with other statutes.

Medicating of a Child

The bill amends the CINC Code to specify that nothing in the Code shall be construed to compel a parent to medicate a child if the parent is acting in accordance with a physician's medical advice. A parent's actions in these circumstances shall not constitute a basis for determination that a child is a child in need of care, for the removal of custody of a child, or for the termination of parental rights without a specific showing of a causal relation between the actions and harm to the child. "Physician" is defined as a person licensed to practice medicine and surgery by the State Board of Healing Arts or by an equivalent licensing board or entity in any state.

Access to Files in Child in Need of Care Proceedings

The bill amends the list of persons and entities with access to the official file and social file in a child in need of care proceeding, to add to the list any county or district attorney from another

jurisdiction with a pending child in need of care matter regarding any of the same parties or interested parties.

Human Trafficking, Sexual Exploitation of a Child, Children in Need of Care, and Juvenile Offenders

The bill enacts new law in the CINC Code requiring the Secretary for Children and Families to report to law enforcement agencies of jurisdiction information that a child has been identified as a victim of human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child, immediately after receiving such information and in no case later than 24 hours after receiving such information. Similarly, immediately after receiving information that a child in the custody of the Secretary is missing, and in no case later than 24 hours after receiving such information, the Secretary must report such information to the National Center for Missing and Exploited Children and the law enforcement agency in the jurisdiction from where the child is missing. The law enforcement agency must enter such information into the National Crime Information Center and Kansas Bureau of Investigation missing person systems in accordance with other statutory provisions.

The bill amends the definition of "child in need of care" in the CINC Code to include a person less than 18 years of age at the time of filing of the petition or issuance of an *ex parte* protective custody order who has been subjected to an act that would constitute human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child, or who has committed an act that, if committed by an adult, would constitute selling sexual relations. The bill also adds definitions for "reasonable and prudent parenting standard" and "runaway." The definition of "sexual abuse" is amended to clarify the list of crimes included is not exclusive, and the list of crimes is expanded.

For the purpose of carrying out the responsibilities related to the Interstate Compact for Juveniles, the Interstate Compact for Juveniles compact administrator is added to the following provisions:

- The list of persons and entities required to freely exchange information related to children alleged or adjudicated to be in need of care;

- The list of persons and entities to whom records of law enforcement officers and agencies and municipal courts concerning juvenile offenses may be disclosed; and

- The list of persons and entities to whom the head of any juvenile intake and assessment program may authorize disclosure of records, reports, and other information obtained as a part of the juvenile intake and assessment process.

A provision in the CINC Code requiring a law enforcement officer to take a child under 18 years of age into custody under certain circumstances is amended to add probable cause that the child is a runaway as a permissible circumstance. A circumstance listed in continuing law where there is probable cause the child is a missing person and a verified missing person entry for the child can be found in the National Crime Information Center missing person system is amended to allow either circumstance to justify taking the child into custody.

The CINC Code statute governing permanency planning is amended to include consultation with the child, if the child is 14 years of age or older and is able, in preparing the permanency plan.

The CINC Code statute governing permanency hearings is amended to limit other planned permanent arrangements to children 16 years of age or older. The permanency hearing requirements are amended to apply to every permanency hearing and to require the court to enter a finding as to whether the reasonable and prudent parenting standard has been met and whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities. The Secretary for Children and Families must report the steps being taken to ensure the foster home or child care institution is following the standard and the child has the required opportunities. If the child is 14 years of age or older, the Secretary must document efforts to help the child prepare for transition from custody to successful adulthood, including programs and services being provided to help accomplish this.

If the permanency goal at the time of the hearing is another planned permanent arrangement, the court must ask the child about the desired permanency outcome and document the intensive, ongoing, and unsuccessful (as of the hearing date) efforts by the Secretary to return the child home or secure a placement with a fit and willing relative, legal guardian, or adoptive parent. The Secretary must report on these efforts, including utilization of search technology (including social media) to find biological family members. Finally, the court must make a judicial determination explaining why (as of the hearing date) another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interests of the child to return home, be placed for adoption, or be placed with a legal guardian or a fit and willing relative.

The CINC Code statute governing notice of the permanency hearing is amended to require notice of the time and place be given to the child if 14 years of age or older. The notice is required to request the child's participation by attendance or by report to the court.

The CINC Code statute containing provisions for children in custody who are victims of human trafficking-related crimes is amended to broaden its application to include situations where there is reason to believe a child has been subjected to an act that would constitute the crimes. The bill clarifies the assessment tool to be used to assess the child's needs, and it specifies that only a summary of the results of the assessment tool will be provided to the court. The bill clarifies a required DCF assessment is to determine "appropriate and timely" placement and "appropriate services to meet the immediate needs of the child." A requirement for use of a rapid response team is removed.

The Juvenile Justice Code (Juvenile Code) definitions section is amended to add definitions for "reasonable and prudent parenting standard" and "secretary."

The Juvenile Code statute governing permanency planning for juveniles in the custody of the Commissioner of Juvenile Justice and other statutes throughout the bill are amended to replace references to the Commissioner of Juvenile Justice and the Juvenile Justice Authority with references to the Secretary of Corrections and the Department of Corrections to reflect the provisions of 2013 Executive Reorganization Order No. 42.

This statute also is amended to include provisions nearly identical to those added to the CINC Code requiring permanency planning consultation with a juvenile 14 years of age or older, requiring certain information be provided and certain findings be made at the permanency hearing, and requiring notice of the hearing be given to a juvenile 14 years of age or older. A provision also is added requiring the court to determine whether and, if applicable, when the juvenile will be reintegrated with the juvenile's parents; placed for adoption; placed with a permanent custodian; or, if the juvenile is 16 years of age or older and the Secretary of Corrections has documented compelling reasons why it would not be in the juvenile's best interests for one of the above placements, placed in another planned permanent arrangement.

The statute governing staff secure facilities is amended to replace a requirement for 24-hour-a-day staff observation of facility entrances and exits with a requirement for staff monitoring of such entrances and exits. The bill clarifies the services to be provided to children in the facility are to be as appropriate and for the duration of the placement. A provision is added to allow a staff secure facility to be on the same premises as another licensed facility. The Secretary for Children and Families is required to promulgate rules and regulations to implement the section by January 1, 2017.

The statute governing the juvenile intake and assessment system is amended to prohibit records, reports, and information obtained as a part of the juvenile intake and assessment process from being used in a juvenile offender proceeding, except in regard to the possible trafficking of a runaway. Such records, reports, and information shall be made available to the appropriate county or district attorney and the court, to be used only for diagnostic and referral purposes.

CIVIL MATTERS

Uniform Commercial Code; Sub. for HB 2062

Sub. for HB 2062 amends provisions of the Uniform Commercial Code (UCC) concerning remittance transfers as defined in the federal Electronic Fund Transfer Act (EFTA). The bill provides that state law applies to a remittance transfer unless it is an electronic fund transfer, as defined in the EFTA. In a funds transfer where state law applies, the EFTA governs in the event of an inconsistency. The bill also makes technical amendments to the UCC.

Kansas General Corporations Code; Senate Sub. for HB 2112

Senate Sub. for HB 2112 substantially amends the laws governing corporations.

The bill amends and recodifies the Kansas Business Combinations with Interested Shareholders Act, defining key terms and prohibiting corporations from engaging in any business combination with any interested stockholder for three years following the time such stockholder became an interested stockholder, except as described in the bill.

The bill also adds new sections to the Kansas General Corporation Code (Code) as follows:

- Governing civil actions to interpret, apply, enforce, or determine the validity of certain corporate documents;

- Governing provisions in a corporation's bylaws concerning proxies;

- Defining "nonstock corporations" as any corporation organized under the Code that is not authorized to issue capital stock; explaining that generally the Code applies to such corporations; listing which sections of the Code do not apply to nonstock corporations; defining "nonprofit nonstock corporation" as a nonstock corporation that does not have membership interests; and explaining how the Code applies to such corporations;

- Allowing bylaws to require all internal claims to be brought in Kansas courts and prohibiting bylaws from barring such claims from being brought in Kansas courts;

- Outlining the required contents of notice provided to persons having a claim against a corporation that has been dissolved; publication requirements; the date by which such claims must be brought when a claimant was given actual notice; requirements related to persons with contractual claims contingent upon the occurrence or nonoccurrence of future events; requirements related to such claims; and how this new language applies to nonstock corporations and nonstock nonprofit corporations; and

- Describing the process required to ratify one or more defective corporate acts and remedies available by persons substantially and adversely affected by such ratification.

Throughout the Code, the bill updates references to the Business Entity Standard Treatment (BEST) Act, which was enacted in 2014; adds provisions specific to nonstock corporations in accordance with the new section discussed above; adds language specific to uncertificated stock; and makes other technical and non-substantive changes.

Additionally the bill:

- Amends the definition of "issuing public corporation";
- Amends what provisions can be included in a corporation's articles of incorporation;
- Specifies who may act on behalf of an incorporator if he or she is unavailable;
- Prohibits bylaws from imposing liability for attorney fees or expenses of the corporation connected with an internal corporate claim on a stockholder;
- Amends provisions that could be included in emergency bylaws;
- Revises provisions governing a board of directors, including when a director's resignation is effective, election of directors, classes of directors, conferral of voting powers greater or lesser than that of other directors, and a director's consent to action that will be effective in the future;
- Amends provisions specifying who a corporation can indemnify and in what circumstances and governing advancement of expenses;
- Clarifies language concerning certificates of designation;
- Allows the formula to determine consideration for capital stock to include or be dependent on ascertainable facts outside the formula;
- Prohibits the State from taxing stocks or bonds issued by a corporation organized under the Code owned by a nonresident or foreign corporation;
- Increases the time limit for asserting liability for unpaid consideration for shares from five to six years after the stock was issued or the date of the subscription upon which the assessment is sought;
- Strikes language concerning the use of defenses available in enforcing a contract;

- In a statute stating Article 8 of the Uniform Commercial Code governs the transfer of stock, specifies that to the extent the Code is inconsistent with Article 8, the Code controls;

- Amends provisions governing stockholder meetings and the method to determine validity of electronic transmission of a stockholder's authorization for another to serve as proxy;

- Adds language concerning the record date for determining which stockholders are entitled to notice and to vote at a stockholder meeting and access to the list of such stockholders;

- In a statute governing voting trust agreements and agreements to deposit capital stock of an original issue with or transfer capital stock to another, replaces "filing" with "delivery" and specifies the agreement could be delivered to a corporation's principal place of business rather than the corporation's registered office;

- Clarifies the role of the district court in resolving issues concerning stockholder elections and votes, including whether a person has a right to vote at any meeting, and decreases the amount a court can penalize a corporation for disobedience of a court order from $25,000 to $5,000;

- Amends the law governing written consent of stockholders to take action without a meeting and requires delivery of such consent to a corporation's registered office to be by certified or registered mail, return receipt requested;

- Revises provisions concerning when and in what manner a corporation can amend its articles of incorporation, requirements for stockholder consideration and approval of proposed amendments, and provisions allowing corporations to adopt a restated articles of incorporation to integrate all provisions then in effect, as well as further amend the articles;

- Amends the statutes governing merger and consolidation of:

    - Kansas corporations;

    - Kansas corporations with corporations of another state;

    - Two or more Kansas nonstock corporations;

    - A Kansas nonstock corporation with a nonstock corporation of another state;

    - One or more Kansas nonstock corporation with one or more Kansas stock corporation; and

  - One or more Kansas corporation, whether stock or nonstock and regardless of whether organized for profit, with one or more out-of-state corporation, whether stock or nonstock and regardless of whether organized for profit;

- Revises and adds criteria for mergers of Kansas constituent corporations to occur without a vote of the stockholders of such corporation;

- Updates service of process provisions applicable to mergers or consolidations of stock corporations and nonstock corporations to permit process to be served by electronic transmission, but only as prescribed by the Secretary of State. The Secretary of State is authorized to issue rules and regulations on this topic.

- Amends the statute governing merger of a Kansas corporation and an out-of-state corporation when 90 percent of the outstanding shares of each class of the stock of one corporation is owned by the other corporation to reference other statutes applicable to such a merger;

- Revises provisions concerning appraisal rights;

- Specifies that for purposes of the sale, lease, or exchange of a corporation's property and assets, property and assets include the property and assets of a subsidiary;

- Amends provisions governing dissolution, including the dissolution of nonstock and nonprofit corporations, the role of the court in dissolution, the obligations of a dissolved corporation or successor entity, and the liability of stockholders upon dissolution;

- Adds "trustee" alongside "receivers" in the sections of the law concerning insolvency of a corporation;

- Requires creditors to make proof of their claims against a corporation within the time fixed and in accordance with the procedure established by the court, rather than within six months or within such other period of time as the court shall so order and direct;

- Allows creditors to appeal a claim that is disallowed within 30 days of receiving notice the claim has been disallowed rather than having the right to a hearing within 30 days;

- In the statute granting employees of the corporation to have a lien upon the assets thereof for the amount of wages due to them, not to exceed two months' wages, which are paid prior to any other debts of the corporation, amends the definition of "employee" to not include "officers" rather than "anyone owning or controlling a majority of the voting stock or voting power";

- Amends the law governing "reorganization" of a corporation to refer to "bankruptcy";

- Revises the law concerning the ability of stockholders to revoke the dissolution within three years of the dissolution;

- Amends provisions governing extension, renewal, and reinstatement of a corporation's articles of incorporation;

- Strikes a requirement that annual reports of business trusts, corporations, electric corporations, not-for-profit corporations, foreign corporations organized for profit, limited partnerships (LP), limited liability partnerships (LLP), limited liability companies (LLC), and foreign LPs and LLPs be dated;

- Specifies a business trust, domestic or foreign corporation, LP, LLP, LLC, or foreign LP or LLP whose annual report filing and fee is received by mail postmarked within 90 days from the date on which the report is due forfeits its articles of incorporation or, where applicable, its authority to do business in Kansas;

- Requires certificates of validation to be filed with the Secretary of State and sets the cap on the fee for such a certificate at $150;

- Adds an exemption for banks, savings and loan associations, and savings banks to the requirements that the name of a corporation, LP, LLP, or LLC be distinguishable on the records of the Secretary of State from the name of other entities and contain one of a list of specified words;

- Requires the address of a registered office, which must be included in an entity's organic documents or other document filed with the Secretary of State, to include the street, number, city, and postal code;

- Specifies a domestic or foreign LLP could serve as a resident agent for a corporation, LP, LLP, or LLC;

- Strikes a requirement that the Secretary of State issue a certified copy of a certificate provided by a resident agent listing all the entities it represents;

- When a new certificate must be filed due to a name change, amends the procedure for a resident agent to resign; and

- Revises the requirements for a foreign entity to do business in the state of Kansas.

CONCEALED CARRY

Firearms; HB 2502

HB 2502 makes changes to several laws concerning firearms.

Air Guns

The bill amends the Weapons Free School Act to prohibit school districts from adopting policies preventing organizations from conducting activities on school property solely because the activities involve the possession and use of air guns.

School districts may prohibit the possession of air guns at a school, on school property, or at a school-supervised activity except when a pupil is participating in activities conducted by an organization or is in transit to or from such activities. School districts cannot implement policies that prohibit the possession of an air gun by a pupil on school property if the pupil is a participant in the activities of an organization.

Individuals, or parents of individuals, participating in activities conducted by an organization can be required to sign a liability waiver as prescribed by the chief administrative officer of the school. The waiver is required to contain appropriate language to relieve the school district, the school, and all school personnel from liability for claims arising from the acts or omissions of individuals or school personnel relating to activities conducted by an organization.

The definition of "weapon" is amended to specifically exclude air guns. The bill defines "air gun" to mean any device that will or is designed to or may be readily converted to expel a projectile by the release of compressed air or gas, and that is of .18 caliber or less and has a muzzle velocity that does not exceed 700 feet per second. The bill defines "organization" to mean any profit or nonprofit association, whether school-sponsored or community-based, whose primary purpose is to provide youth development by engaging individuals under the age of 19 in activities designed to promote and encourage self-confidence, teamwork, and a sense of community.

Active Duty Military Personnel

The bill makes several amendments to concealed carry statutes to allow active duty military personnel to apply for and receive a concealed carry license while stationed outside of Kansas. First, the bill adds evidence of completion of a course offered in another jurisdiction which is determined by the Attorney General to have training requirements that are equal to or greater than those required by the Personal and Family Protection Act to the definition of what constitutes evidence of satisfactory completion of an approved handgun safety course.

The bill also specifies that a person presenting proof that such person is on active duty with any branch of the U.S. armed forces and is stationed at a military installation outside the state can submit a concealed carry application and supporting materials by mail. Fingerprints taken at a U.S. military installation also can be submitted by mail with such application.

The bill requires a sheriff receiving such items to forward the application and the Attorney General's portion of the application fee to the Attorney General.

Public Employers and Employees

The bill prohibits public employers from restricting or prohibiting through personnel policies any employee legally qualified to conceal carry from carrying a concealed handgun while engaged in employment duties outside the employer's place of business, including while in a means of conveyance. School districts are specifically exempted from the definition of public employer.

Public Buildings

Under previous law, the concealed carrying of firearms could be prohibited throughout the entirety of state and municipal buildings by the governing body or chief administrative officer of the building. The bill makes the requirements for prohibiting concealed carry in public areas the same as those found in continuing law for prohibiting concealed carry in public buildings: the building or public area must have adequate security at all public access entrances to ensure no weapons are permitted to be carried in the area or building and must conspicuously post the prohibition. The bill specifies such public areas could be posted with either permanent or temporary signage approved by the governing body or the chief administrative officer if no governing body exists.

"Public area" is defined as any portion of a state or municipal building that is open to and accessible by the public or is otherwise designated as a public area by the governing body or the chief administrative officer, if no governing body exists, of such a building. The bill defines "public employer" as the State and any municipality as defined in KSA 2015 Supp. 75-6102 (under this statute, a "municipality" means any county, township, city, school district, or other political or taxing subdivision of the state, or any agency, authority, institution, or other instrumentality thereof).

The bill specifies that the chief judge of each judicial district may prohibit the carrying of concealed firearms into courtrooms or ancillary courtrooms within the district provided the public area has adequate security measures to ensure that no weapons are permitted to be carried into the area and the area is conspicuously posted in accordance with the law.

The bill also states that exemptions from the Personal and Family Protection Act for state and municipal buildings found in previous law expire July 1, 2017. No specific expiration date was included in law previously.

Restricted Access Entrances

The bill amends the Personal and Family Protection Act to allow entry through restricted access entrances for persons who are not state or municipal employees or otherwise authorized to enter a state or municipal building through a restricted access entrance.

To qualify for restricted access entry, such persons will be required to:

- Obtain authorization from the chief law enforcement officer, governing body, or the chief administrative officer (if no governing body exists) to enter such state or municipal building through a restricted access entrance;

- Be issued an identification card by the chief law enforcement officer, governing body, or chief administrative officer; and

    - The identification card is required to include a statement that such person is authorized to enter such building through a restricted access entrance, and include the person's photograph, name, and any other identifying information deemed necessary by the issuing entity;

- Execute an affidavit or notarized statement that such person acknowledges certain firearms and weapons may be prohibited in such building and violating any such regulations may result in revocation of authority to enter a building through a restricted access entrance.

The chief law enforcement officer, governing body, or chief administrative officer is required to develop criteria for approval of individuals to qualify for entry through restricted access entrances. The criteria can include a requirement that the individual submit to state and national criminal history checks before issuance and renewal of such approval and a requirement the individual pay a fee to cover the cost of such background checks.

An individual who has been issued a concealed carry permit by the State is not required to submit to further state and national background checks before the issuance and renewal of such authorization to enter buildings through restricted access entrances.

Individuals can be subjected to additional security screening measures upon reasonable suspicion or in circumstances where heightened security measures are warranted.

The bill states authorization to enter state and municipal buildings through restricted access entrances does not allow the individual to carry a concealed weapon in a public building which has adequate security measures and is conspicuously posted in accordance with the law.

"Authorized personnel" is defined to mean employees of a state agency or municipality and any person who is, under the provisions of the bill, authorized to enter a state or municipal building through a restricted access entrance.

Adequate Security Measures

The bill amends the definition of "adequate security measures" to specify that personnel used at public entrances of buildings prohibiting concealed carry within the building must be armed.

CONSUMER AFFAIRS

Consumer Protection—Identity Theft; Identity Fraud; Door-to-Door Sales; Violation of a Consumer Protection Order; HB 2460

HB 2460 creates and amends law in the Kansas Consumer Protection Act (KCPA) regarding identity theft and identity fraud and creates the crime of violation of a consumer protection order, regarding door-to-door sales.

Identity Theft and Identity Fraud

The bill grants the Attorney General authority, within the limits of available resources, to assist victims of identity theft, identity fraud, and related crimes in pursuing various remedies.

The bill clarifies the duties of holders of personal information. Specifically, the bill defines a "holder of personal information" (holder) as a person (defined by the bill) who collects, maintains, or possesses personal information (defined by the bill) of any other person. A holder has the following duties:

- To implement and maintain reasonable procedures and practices appropriate to the nature of the information, and exercise reasonable care to protect the information from unauthorized access. Compliance with any applicable federal or state law or regulation governing the procedures and practices of the holder regarding the protection of the information will be deemed proof of compliance with this provision, and failure to comply with such law or regulation will be *prima facie* evidence of a violation of this provision; and

- To destroy (by methods specified in the bill) records containing personal information in the holder's custody or control when the holder no longer intends to maintain or possess such records.

A holder may present an affirmative defense to a violation of these provisions if the holder proves by clear and convincing evidence that:

- The violation resulted from a failure of the method of destruction of such records, and such failure could not reasonably have been foreseen despite the holder's reasonable care; or

- The holder had, at the time of the violation, a written or electronic records management policy designed to prevent a violation of these provisions, and the destruction was not carried out pursuant such policy.

This affirmative defense is not available to a holder unless the holder proves that persons involved in the violation received training in the records management policy, the violation was the result of a good-faith error, and no reasonable likelihood exists that the violation may cause,

enable, or contribute to identity theft or identity fraud, or to a violation of an information security obligation imposed by federal or state statute or regulation.

Each violation of these provisions shall be an unconscionable act or practice under the Kansas Consumer Protection Act, and each record not destroyed in compliance with the bill's provisions shall constitute a separate unconscionable act.

The bill grants exclusive authority to the Attorney General to bring an action pursuant to the bill's provisions, and nothing in the bill may be construed to create or permit a private cause of action for any violation. The bill states its provisions do not relieve a holder of any duty to comply with other requirements of state and federal law regarding the protection of such information.

The bill amends an existing statute known as the "Wayne Owen Law" to name that statute, in combination with the new law established by the bill regarding identity theft and identity fraud, the "Wayne Owen Act."

The bill also repeals a statute governing the destruction of consumer information.

Door-to-Door Sales

The bill creates the crime of violation of a consumer protection order, which is defined as engaging in a door-to-door sale while prohibited from door-to-door sales. The bill defines "prohibited from door-to-door sales" to mean subject to a temporary or permanent order or judgment of a court entered under the KCPA or any act part of or supplemental to the KCPA that restrains, enjoins, or otherwise prohibits the person from engaging in door-to-door sales in this state or any portion therein. The bill specifies that an order or judgment restrains, enjoins, or otherwise prohibits the person from engaging in door-to-door sales if it:

- Expressly prohibits the person from engaging in door-to-door sales;
- Prohibits conduct that includes engaging in door-to-door sales, such as prohibiting the person from engaging in consumer transactions, as defined in the KCPA; or
- Prohibits engaging in only a particular type of door-to-door sales, such as the sale of roofing-related services, or only in a particular place, in which case criminal liability would arise only if the person engaged in the particular type of door-to-door sale that is restrained.

Violation of a consumer protection order is a severity level 9, person felony. The person shall be subject to criminal liability if the State proves beyond a reasonable doubt that such person had actual or constructive notice of the temporary or permanent order or judgment, as described in the definition of "prohibited from door-to-door sales." The bill outlines circumstances wherein a person would have actual or constructive notice.

The bill provides criminal liability imposed under the terms of the bill shall not relieve any person of civil liability for violating a consumer protection order. Any criminal penalties authorized by law may be imposed in addition to any civil sanctions or liability authorized by law. The bill

allows the Attorney General, a county or district attorney, or both to institute criminal action to prosecute this offense and includes a severability clause for the section creating this new crime.

Finally, the bill allows the Attorney General's Office to post conspicuously on its website any judgment or order that restrains, enjoins, or otherwise prohibits a person from engaging in door-to-door sales and adds violation of a consumer protection order to the list of crimes giving rise to civil forfeiture.

CORRECTIONS AND JUVENILE JUSTICE

Search and Seizure—Parole and Postrelease Supervision; SB 325

SB 325 amends provisions requiring parolees and persons on postrelease supervision to be (and agree to be) subject to search and seizure by certain officers or under certain circumstances by replacing "search and seizure" with "searches of the person and the person's effects, vehicle, residence and property." The same change is made in provisions requiring the Prisoner Review Board to make certain related orders.

Disposition of Detainers; SB 392

SB 392 amends the Uniform Mandatory Disposition of Detainer Act by specifying it is to apply to an inmate in the custody of the Secretary of Corrections (Secretary). The bill requires delivery of an inmate's request of final disposition and adds the Secretary to those persons to whom the request must be sent.

General language regarding a warden, superintendent, or other official having custody of prisoners is replaced with the term "Secretary," and the term "prisoner" is replaced with the term "inmate."

Language regarding delivery of the request is clarified to specify that the Secretary is to promptly take certain actions upon receiving the inmate's request.

A reference to the State Board of Probation and Parole is updated to reflect the Prisoner Review Board's succession.

Provisions are added specifying that detainers shall be disposed of in the order in which they are placed with the Secretary. If an inmate has detainers from multiple jurisdictions, the district or county attorneys in those jurisdictions may agree to a different order of disposition. The Secretary is directed to allow transportation of inmates for the disposition of detainers.

The existing 180-day time limit to bring an indictment, information, or complaint to trial, or a motion to revoke probation for hearing, is clarified to provide that, in the case of detainers from multiple jurisdictions, the first detainer shall be brought within 180 days and each subsequent detainer shall be brought within 180 days after return of the inmate to the Secretary or transportation of the inmate to the jurisdiction following disposition of the previous detainer.

The existing continuance provision is replaced with a provision stating the time limits shall not apply to time during which a continuance or delay has been requested or agreed to by the inmate or the inmate's attorney, to time during which a motion to determine competency of the inmate is pending, or to time during which an inmate is determined to be incompetent to stand trial.

The word "uniform" is struck from the title of the act in light of the changes made by the bill.

Kansas Offender Registration Act—Conditional Release; SB 407

SB 407 amends statutes related to registration under the Kansas Offender Registration Act (KORA) to require a court committing an offender under the Kansas Sexually Violent Predator Act for control, care, and treatment by the Kansas Department for Aging and Disability Services to notify the registering law enforcement agency of the county where the offender resides during commitment. The Office of the Attorney General is required to prepare this notice for electronic transmittal by the court. The committed offender is required to register within three business days of arriving in the county where the offender resides during commitment, and the offender is not required to update registration until placed in a reintegration facility or on transitional or conditional release, at which point the offender is personally responsible for complying with KORA provisions.

The bill also revives a statute in the Sexually Violent Predator Act requiring annual examination and court review of persons in transitional release, providing procedures for hearings on whether such person is safe to be placed in conditional release, and setting the standard for court determination of whether the person is appropriate for conditional release.

Program Credits; Conditional Dismissal of Post-Release Supervision or Violation Charges; HB 2447

HB 2447 increases the maximum number of days an inmate's sentence may be shortened for earning program credits from 90 days to 120 days. The provisions of the bill are to be construed and applied retroactively, and the bill directs the Secretary of Corrections to make the program credit calculations authorized by the bill no later than January 1, 2017.

The bill also permits the dismissal of parole, conditional release, or post-release supervision violation charges to be conditioned upon the released inmate agreeing to credit being withheld for the period of time from the date the Secretary of Corrections issued a warrant to the date the offender was arrested or returned to Kansas. The bill requires the time to be credited to the released inmate's sentence if the violation charge was dismissed without the agreement described above or the violation was not established to the satisfaction of the Prisoner Review Board.

COURTS

Courts and Filling Judicial Vacancies; House Sub. for SB 128

House Sub. for SB 128 amends statutes governing municipal courts and filling judicial vacancies.

Municipal Courts

The bill amends the statutes governing expungement for convictions of city ordinances or state laws, as well as arrests, to provide that when an expungement is ordered for a case appealed from a municipal court, the district court clerk must send a certified copy of the expungement order to the municipal court, which shall order the case expunged once the copy of the order is received. Similarly, the bill amends the statute governing appeals from municipal courts to require the district court to send notice of dismissal, conviction, or acquittal to the municipal court clerk at the end of the case.

Judicial Vacancies

The bill also amends and enacts law related to the filling of judicial vacancies, including the method used to select the lawyer members of the Supreme Court Nominating Commission and district judicial nominating commissions, the applicability of the Kansas Open Meetings Act (KOMA) and Kansas Open Records Act (KORA) to nominating commissions, and the number of nominees a district judicial nominating commission will be required to nominate.

Selection of Lawyer Members of Nominating Commissions

The bill requires applicants for admission to practice law to provide the following information: name, place of residence, date of birth, sex, and the last four digits of the person's social security number or the person's full driver's license or nondriver identification card number. A pending applicant must notify the Clerk of the Supreme Court (Clerk) in writing of any change in name or address within ten days of such change. The bill requires any person whose application is pending as of the effective date of the bill to provide the correct information required above to the Clerk within 60 days of the effective date of the bill and requires the Clerk to send notice of this requirement within 30 days of the effective date.

A new section requires the Clerk to maintain a roster of attorneys licensed to practice law in Kansas, including the information required above and the congressional and judicial districts of residence for each person. Similar to requirements for pending applicants, the bill requires any Kansas licensed attorney to notify the Clerk of any change in name or residential address within ten days of such change. Further, the bill requires any Kansas licensed attorney whose information as required above is not correct on the roster as of the effective date of the bill to provide the correct information within 60 days of the effective date of the bill and requires the Clerk to send notice of this requirement within 30 days of the effective date.

To be eligible to nominate or receive and cast ballots for the lawyer members of the Supreme Court Nominating Commission, the bill requires attorneys to be licensed and residing in Kansas (and, for Commission members, the appropriate congressional district) on or before the February 15 prior to the selection of such positions. The same requirement applies with regard to elections of lawyer members of district judicial nominating commissions, except the relevant date is November 15.

On or before the February 20 preceding the selection of the chairperson or members of the Supreme Court Nominating Commission, the Clerk must transmit a certified copy of the roster of Kansas licensed attorneys to the Secretary of State, containing the voter information set forth above for those residing in Kansas (or within the relevant congressional district for a member election) as of February 15, in a format prescribed by the Secretary of State, who then will append the unique voter identification number for each person listed on the roster having such a number. The same procedure is required on or before the November 20 preceding the election of a lawyer member of a district judicial nominating commission, with the same voter information required for each person residing within the judicial district as of November 15.

The bill amends the statute governing voting procedures to select members of the Supreme Court Nominating Commission to require the Clerk to use the certified roster of attorneys as provided to the Secretary of State and to preserve qualification certificates for five years and then destroy the certificates. Within 14 days after a selection is certified, the Clerk must create a list containing the position and year of the selection and the names and residential addresses of all persons who returned a ballot with a signed certificate. The Clerk then will transmit a certified copy of this list to the Secretary of State, in a format prescribed by the Secretary of State.

The bill provides the names, residential addresses, dates of birth, unique voter identification numbers, and dates of licensure to practice law in Kansas of all persons on the certified rosters; the qualification certificates; and the lists of persons returning a ballot are subject to a KORA request. These provisions apply to all selections of a chairperson or members of the Supreme Court Nominating Commission that have not been canvassed, regardless of whether the selections are scheduled, upcoming, or pending as of the effective date of the bill.

Applicability of KORA and KOMA

The bill deems the Supreme Court Nominating Commission and district judicial nominating commissions to be public bodies subject to KOMA. Further, the bill prohibits the Supreme Court Nominating Commission and district judicial nominating commissions from recessing for any closed or executive meeting except for the purpose of discussing sensitive financial information contained within the personal financial records or official background check of a judicial nomination candidate. These provisions do not supersede a nominating commission's discretion to close a record or portion of a record pursuant to any applicable KORA exception.

The bill includes the Secretary of State and the Attorney General, or their designees, as the canvassers for any election of the chairperson or members of the Supreme Court Nominating Commission or any election of lawyer members of a district judicial nominating commission, instead of two or more members of the bar residing in Kansas designated by the Chief Justice. The Clerk remains a canvasser.

For elections of lawyer members of a district judicial nominating commission, the bill requires the Clerk to use the certified roster to ascertain eligibility for ballots or membership on the district judicial nominating commission. In such elections, a ballot not accompanied by the signed certificate of the voter will not be counted. The Clerk is required to preserve the ballots for six months after the results are certified and to preserve the certificates for five years. The bill permits inspection of the ballots only upon order by the Supreme Court and requires the Clerk to destroy the ballots and certificates at the end of the preservation periods. As with the Supreme Court Nominating Commission elections, for such elections, the Clerk must provide the same list of persons returning a ballot with a signed certificate to the Secretary of State, and such lists and certificates are subject to KORA requests.

The bill amends the statute governing the appointment of judges of the Court of Appeals to require the Governor (or the Chief Justice, if making an appointment because the Governor failed to make an appointment) to make each applicant's name and city of residence available to the public once applications are no longer accepted, but not less than ten days before making the appointment.

Number of Nominees

The bill requires the Supreme Court Nominating Commission to nominate three persons to fill a vacancy in the Supreme Court and certify the names of the nominees to the Governor. For district judicial nominating commissions, the bill changes the number of nominees for each vacancy from two or three to three, four, or five and amends the section governing what occurs if there are not at least two qualified attorneys willing to accept a nomination, to change two to three.

Court Docket Fees; Electronic Filing and Management Fund; House Sub. for SB 255

House Sub. for SB 255 creates new law and amends, revives and amends, or repeals various statutes related to Kansas court docket fees.

The bill creates the Electronic Filing and Management Fund. All expenditures from this fund shall be for the purposes of creating, implementing, and managing an electronic filing and centralized case management system for the state court system.

A statute regarding the remitting of moneys by the Clerk of the Supreme Court is revived and amended to redirect remittances previously made to the State General Fund to the Judicial Branch Docket Fee Fund instead.

Statutes regarding the Dispute Resolution Fund, the Access to Justice Fund, the Protection from Abuse Fund, the Crime Victims Assistance Fund, and the Kansas Juvenile Delinquency Prevention Trust Fund are revived and amended to remove references to disposition of docket fee statutes. The statute regarding the Kansas Juvenile Delinquency Prevention Trust Fund also is amended to update references to the Secretary of Corrections.

A statute establishing the Indigents' Defense Services Fund is revived and amended to remove a provision directing the charge of a $0.50 fee in various cases to be credited to this fund.

A statute regarding expungement is amended to resolve a conflict with other versions of the statute regarding the sunset date for the Judicial Branch surcharge.

Finally, the bill repeals several additional statutes, including those regarding:

- Disposition of docket fees (previously repealed in 2014 Senate Sub. for HB 2338);
- The Electronic Filing and Management Fund (as created in 2014 Senate Sub. for HB 2338); and
- Conflicting versions of docket fee and expungement statutes (previously repealed in 2014 Senate Sub. for HB 2338).

Minor in Possession of Alcohol—Immunity from Liability for Seeking Medical Assistance; SB 133

SB 133 amends the crime of possessing, consuming, obtaining, purchasing, or attempting to obtain or purchase alcohol by a person under 21 to include immunity from prosecution for a person and, if applicable, one or two other persons acting in concert with such person, who initiated contact with law enforcement or emergency medical services; requested medical assistance on such person's behalf because such person reasonably believed he or she was in need of medical assistance; and cooperated with emergency medical services personnel and law enforcement officers in providing medical assistance.

The bill also extends immunity from prosecution when a person and, if applicable, one or two other persons acting in concert with such person, initiated contact with law enforcement or emergency medical services or was one of one or two other persons who acted in concert with such person; requested medical assistance for another person who reasonably appeared to be in need of medical assistance; provided their full name, the name of one or two other persons acting in concert with such person, if applicable, and any other relevant information requested by law enforcement or emergency medical services; remained at the scene with the person who reasonably appeared to be in need of medical assistance until emergency medical services personnel and law enforcement officers arrived; and cooperated with emergency medical services personnel and law enforcement officers in providing medical assistance. Immunity also shall be extended to the person who reasonably appeared to be in need of medical assistance but did not initiate contact with law enforcement or emergency medical services if the person cooperated with emergency medical services personnel and law enforcement in providing medical assistance.

The bill states a person shall not be allowed to initiate or maintain an action against a law enforcement officer or such officer's employer based on the officer's compliance or failure to comply with these new provisions.

Uniform Controlled Substances Act—Adding Certain Drugs and Drug Classes to Schedules of Controlled Substances; Senate Sub. for HB 2018

Senate Sub. for HB 2018 adds several additional drugs or drug classes to the schedules of controlled substances in the Uniform Controlled Substances Act (UCSA) and makes other technical changes to the UCSA. Specifically, the bill adds an opiate drug, a hallucinogenic compound, and a type of carboxamide compound to schedule I and adds eluxadoline to schedule IV. The bill clarifies the spelling of psilocyn throughout the UCSA.

The bill also amends the Kansas Healing Arts Act to add binge eating disorder to the list of disorders that may be treated with drugs designated as schedule II, III, or IV under the UCSA. In the same statute, the bill updates the term "hyperkinesis" to "attention-deficit/hyperactivity disorder."

Definition of "Significantly Subaverage General Intellectual Functioning"; Senate Sub. for HB 2049

Senate Sub. for HB 2049 amends the statutory definition of "significantly subaverage general intellectual functioning" to require that a standardized intelligence test used to determine this condition must take into account the standard error of measurement. The bill also provides that this condition may be established by means in addition to standardized intellectual testing. The bill amends the definition of "intellectual disability" to remove the ages during which the condition must manifest. The bill specifies the amendments are to be construed and applied retroactively.

Community Parenting Release; Eyewitness Identification Policies and Procedures; Grand Jury Instructions; Sub. for HB 2151

Sub. for HB 2151 creates law relating to community parenting release and eyewitness identification and amends law relating to grand juries.

Community Parenting Release

The bill creates law authorizing the Secretary of Corrections (Secretary) to transfer certain offenders to house arrest pursuant to a community parenting release if the following conditions are met:

- The offender is serving a current sentence for a nondrug severity level 4 through 10 felony or a drug severity level 3 through 5 felony and is determined to be low, low-moderate, or moderate risk on a standardized risk assessment;
- The offender has no prior or current conviction for a sex offense or inherently dangerous felony (not to include a drug severity level 3 through 5 felony);
- The offender has not been found by the U.S. Attorney General to be subject to a deportation detainer or order;
- The offender signs any release of information waivers relating to any current or prior child in need of care (CINC) cases involving the offender;
- The offender had physical custody of such offender's minor child or was a legal guardian or custodian with physical custody of a minor child at the time the offense for which the offender is serving a sentence was committed;
- The offender has 12 months or less remaining of the offender's sentence; and
- The Secretary determines that such placement is in the best interests of the child.

The duties of the Secretary under the community parenting release include:

- Obtaining and reviewing any CINC records involving the offender to determine the best interests of the child prior to making a transfer;

- Approving the offender's residence and living arrangement prior to making a transfer;

- Requiring the offender to comply with all provisions of house arrest;

- Requiring the offender to participate in programming and treatment as needed; and

- Assigning a parole officer to monitor the offender's compliance with the conditions of the release.

The Secretary has authority to return any offender to a correctional facility to serve the remainder of the offender's sentence if the offender fails to comply with the requirements of the release.

Eyewitness Identification

The bill requires all law enforcement agencies in Kansas to adopt a detailed, written policy regarding citizen identification of persons during a criminal investigation. The agencies must collaborate with the county or district attorney to adopt written policies regarding eyewitness procedures and make such policies available to all agency officers. The policies must include identification of the procedures the agency should employ when asking a citizen to identify a person during a criminal investigation. The bill directs these procedures should include use of blind and blinded procedures, instructions to the witness regarding the perpetrator's presence, use of non-suspect fillers who do not make the suspect stand out, and eliciting a confidence statement regarding the level of certainty in the selection.

The bill requires the policies to be implemented by agencies within two years of the effective date of the act and requires the agencies make the policies available for public inspection during normal business hours.

Grand Juries

The bill amends the law concerning grand juries summoned by petition, commonly referred to as citizens grand juries. The bill allows the person who filed the petition and that person's attorney to witness the instructions given to the grand jury, after it is summoned but prior to beginning deliberations, regarding its conduct and deliberations.

Amending the Crimes of Possession of Marijuana, Theft, and Burglary; HB 2462

HB 2462 amends criminal code provisions governing possession of marijuana, theft, and burglary. Specifically, the bill amends penalties for possession of marijuana so that a first offense is a class B nonperson misdemeanor, a second offense is a class A nonperson misdemeanor,

and a subsequent offense is a drug severity level 5 felony. Previously, a first offense was a class A nonperson misdemeanor and any subsequent offense was a drug severity level 5 felony.

The bill also amends the crime of theft to increase the floor for a severity level 9, nonperson felony theft of property or services from $1,000 to $1,500. Accordingly, the ceiling for class A nonperson misdemeanor theft of property and services is raised from "less than $1,000" to "less than $1,500," as well as the ceilings for exceptions raising the severity level for such amounts to a severity level 9, nonperson felony when the property is taken from 3 separate mercantile establishments within a period of 72 hours as part of the same act or common scheme, or when the person committing the theft has been convicted of theft 2 or more times. The bill also establishes a floor of $50 for the exception raising the severity level to a severity level 9, nonperson felony when the person committing the theft has been convicted of theft 2 or more times, and adds a 5-year lookback provision to this exception.

Further, the bill creates a special sentencing rule for burglary of a dwelling to make the sentence presumptive imprisonment if the offender has a criminal history score of C (one previous person felony and one previous nonperson felony), D (one previous person felony), or E (three or more nonperson felonies). The bill adjusts the penalty provisions for burglary of a dwelling with intent to commit the theft of a firearm to make it a person felony, rather than a nonperson felony.

The bill amends the definition and penalties for aggravated burglary to make aggravated burglary committed by entering into or remaining in a dwelling in which there is a human being, with the required intent, a severity level 4, person felony. Entering into a non-dwelling building or structure in which there is a human being, with the required intent, remains a severity level 5, person felony.

The bill further establishes that the crimes of burglary and aggravated burglary do not apply to a person who enters or remains in retail or commercial premises, while such premises are open to the public, after having been told by the owner or manager not to enter the premises pursuant to the criminal trespass statute, except when the person enters or remains in such premises with the intent to commit a person felony or a sexually motivated crime.

Sentencing and Crimes; HB 2463

HB 2463 amends statutes concerning sentencing and crimes. Specifically, the bill amends statutes governing the determination of criminal history to add non-grid felonies, nondrug severity level 5 felonies, and any drug severity level 1 through 4 felonies committed by an adult to the list of juvenile adjudications that will decay if the current crime of conviction is committed after the offender reaches age 25.

The bill also allows a court to continue or modify conditions of release for or impose a 120- or 180-day prison sanction on an offender who absconds from supervision, without having to first impose a 2- or 3-day jail sanction.

Finally, the bill makes a violation or an aggravated violation of the Kansas Offender Registration Act a person offense if the underlying crime (for which registration is required) is a person crime. If the underlying crime is a nonperson crime, the registration offense is a nonperson crime. If there

are multiple underlying crimes, which include both a nonperson crime and a person crime that require compliance with the Act, the registration offense is a person crime. Previously, a violation or aggravated violation of the Kansas Offender Registration Act was a person crime regardless of the designation of the underlying crime.

Creating Crimes Regarding Visual Depiction of a Child; Amending Crimes of Breach of Privacy and Blackmail; Amending the Definition of a Crime Committed with an Electronic Monitoring Device; HB 2501

HB 2501 creates crimes of unlawful transmission of a visual depiction of a child, aggravated unlawful transmission of a visual depiction of a child, and unlawful possession of a visual depiction of a child. The bill also amends the crimes of breach of privacy and blackmail. Finally, the bill amends the definition of a crime committed with an electronic monitoring device.

Unlawful Transmission or Possession of a Visual Depiction of a Child

Unlawful transmission of a visual depiction of a child is defined as knowingly transmitting a visual depiction of a child at least 12 years of age but less than 18 years of age in a state of nudity when the offender is less than 19 years of age. Aggravated transmission of a visual depiction of a child requires the same elements and adds the requirement that the transmitting occur with the intent to harass, embarrass, intimidate, defame, or otherwise inflict emotional, psychological, or physical harm. There is a rebuttable presumption the offender had this intent if the offender transmitted such visual depiction to more than one person. It also constitutes aggravated transmission if the transmission was made for pecuniary or tangible gain or with the intent to exhibit or transmit the depiction to more than one person.

Unlawful transmission is a class A, person misdemeanor for a first conviction and a severity level 10, person felony for a subsequent conviction. Aggravated unlawful transmission is a severity level 9, person felony for a first conviction and a severity level 7, person felony for a subsequent conviction.

These crimes do not apply to the transmission of a depiction of a child in a state of nudity by the child who is the subject of the depiction. The crimes do not apply to a visual depiction of a child engaged in sexually explicit conduct or a depiction that constitutes obscenity. The bill specifies that it is not unlawful for a person under the age of 19 to possess a visual depiction of a child in a state of nudity who is 16 years of age or older.

Unlawful possession of a visual depiction of a child is defined as the knowing possession of a visual depiction of a child at least 12 years of age but less than 16 years of age in a state of nudity, if the possessor is less than 19 years of age and received the depiction directly and exclusively from the child who is the subject of the depiction. This crime is a class B, person misdemeanor. It is a defense to the crime that the recipient of a depiction received it without requesting, coercing, or otherwise attempting to obtain the depiction; did not transmit, exhibit, or disseminate the depiction; and made a good faith effort to erase, delete, or destroy the depiction. The crime does not apply to the possession of a depiction of a child in a state of nudity by the child who is the subject of the depiction or to a visual depiction of a child engaged in sexually explicit conduct or a depiction that constitutes obscenity.

The bill defines "sexually explicit conduct," "state of nudity," "transmission," and "visual depiction" for the purposes of the new crimes. "Transmission" includes, among other communications, a request to receive a transmission of a visual depiction if the request results in such a transmission.

The crime of sexual exploitation of a child is amended to add "except the circumstances covered by the crimes created by the bill" and to add a provision stating sexual exploitation of a child shall not apply to possession of a depiction of a child in a state of nudity by the child who is the subject of the depiction.

The bill also amends the Kansas Offender Registration Act to specify the definition of "offender" does not include persons convicted or adjudicated of these newly created crimes. Further, notwithstanding any other provision of law, the bill prohibits a court from ordering a person to register under the Act for these offenses.

Breach of Privacy

The bill amends the crime of breach of privacy to include disseminating or permitting the dissemination of any videotape, photograph, film, or image of another identifiable person 18 years of age or older who is nude or engaged in sexual activity and under circumstances in which the other person had a reasonable expectation of privacy, with the intent to harass, threaten, or intimidate the other person, and the other person did not consent to its dissemination. This offense is a severity level 8, person felony or a level 5, person felony upon a second or subsequent conviction within the previous five years.

The breach of privacy provisions of this bill do not apply to interactive computer service providers for content provided by another person, radio common carriers, and local exchange carriers. The provisions also do not apply to persons acting with a bona fide and lawful scientific, educational, governmental, news, or other similar public purpose.

Blackmail

The bill amends the crime of blackmail to include disseminating any videotape, photograph, film, or image obtained in violation of these new provisions, which is a level 4, person felony.

Crime Committed with an Electronic Device

The bill amends the definition of a crime committed with an electronic device to add the words "including but not limited to" before the list of crimes in the statute, making the list non-exhaustive. The crimes currently listed in the statute are criminal use of a financial card, unlawful acts concerning computers, identity theft and identity fraud, and electronic solicitation.

Disclosure of Affidavits or Sworn Testimony Supporting Warrants; HB 2545

HB 2545 amends statutory provisions governing the disclosure of affidavits or sworn testimony supporting arrest warrants and search warrants to provide that, if such affidavits or sworn testimony are disclosed pursuant to the existing provisions, then the disclosed information becomes part of the court record and shall be accessible to the public. If the affidavits or sworn

testimony are ordered sealed and not subject to public disclosure, then they become part of the court record not accessible to the public. Any requests for disclosure of the affidavits or sworn testimony will become part of the court record and will be accessible to the public, regardless of whether the affidavits and sworn testimony are disclosed or sealed.

The bill also amends the procedure for disclosure to require the prosecutor to notify any victim of an alleged crime that resulted in the issuance of the warrant (or the victim's family if the victim is deceased) of the request for disclosure. The bill clarifies the justification for redacting or sealing affidavits or sworn testimony that jeopardizes the safety or wellbeing of a victim, witness, confidential source, or undercover agent, includes the physical, mental, or emotional safety of such person.

The bill adds provisions allowing a magistrate to redact affidavits and sworn testimony to prevent the disclosure of information that constitutes a clearly unwarranted invasion of personal privacy, as defined by the bill.

ECONOMIC DEVELOPMENT

Fees for Economic Development Programs; Senate Sub. for HB 2509

Senate Sub. for HB 2509 grants the Secretary of Commerce discretionary authority to assess and collect the following amounts for the administration of various economic development programs:

- Up to $750 for applications to the Kansas Industrial Training, the Kansas Industrial Retraining, Promoting Employment Across Kansas, and the Job Creation Fund programs;

- Up to 1 percent of the amount of Sales Tax and Revenue (STAR) bonds issued, not to exceed $200,000, plus any actual administrative costs that exceed the fee, which may be payable from the bond proceeds;

- Up to 1 percent of private activity bonds issued, not to exceed $200,000, plus any actual administrative costs that exceed the fee, which may be payable by the issuer, bond proceeds, or both; and

- Up to 2 percent of funds transferred to the State Affordable Airfare Fund.

The Secretary is authorized to adopt rules and regulations to administer the bill. Revenue collected is deposited in administrative funds the bill creates for the programs listed above.

Authorize Sale of Kansas Bioscience Authority; Revisions to STAR Bond Financing Act; HB 2632

HB 2632 authorizes the State Finance Council to oversee the sale of the Kansas Bioscience Authority (KBA) or substantially all of its assets.

The bill also revises provisions of the Sales Tax and Revenue (STAR) Financing Act pertaining to the annexation of area into a STAR Bond district, pledges for future financial support from the State, an "eligible area," and annual reporting to legislative committees.

STAR Bond districts are prohibited from including real property that was part of another STAR Bond project and district unless that STAR Bond project and district have been approved by the Secretary of Commerce (Secretary) prior to March 1, 2016. A STAR Bond district is limited to those areas being developed by the STAR Bond project and any areas reasonably anticipated to directly benefit the project. However, STAR Bond districts created and approved by the Secretary by January 1, 2017, or later shall exclude tax increment financing derived from any sales tax revenues from retail automobile dealers. When a district adds area, the base tax year for the newly annexed area will be the 12-month period immediately prior to the month in which the new area is added to the STAR Bond district. The Secretary and the Secretary of Revenue shall certify

the amount of base year revenue for taxpayers relocating from within the state into a STAR Bond district.

"Eligible area" is redefined to include buildings that are 65 years old or older and contiguous lots which are vacant or condemned. Previously the term was defined as a blighted, conservation, enterprise zone, intermodal transportation, major tourism, or a major commercial entertainment and tourism area.

The bill allows the Secretary to pledge a portion of state sales and use tax revenues to a STAR Bond district; under previous law, the pledge had to be all state sales and use tax revenues.

By January 31 of each Legislative Session, the Department of Commerce, with cooperation from the Department of Revenue, will report to the Senate Committee on Commerce and the House Committee on Commerce, Labor and Economic Development the following information on each STAR Bond district for the past three calendar years and year to date:

- The amount of sales and use tax collected;
- The amount of bond payments and other expenses incurred;
- The amount of bonds issued and the balance of the bonds, by district and by project;
- The remaining cash balance in the project to pay for future debt service and other permissible expenses;
- Any new income producing properties which are brought into a district, identifying the base amount of revenue the State would retain and incremental amount that would go to the district;
- The amount of bonds issued to repay private investors, identifying the share of indebtedness which is financed by private and public financing;
- The percentages of state and local effort committed to the district; and
- The number of visitors to the district, identifying the number of in-state and out-of-state visitors.

The above standing committees of the House and Senate may request additional information as necessary.

EDUCATION

Freedom from Unsafe Restraint and Seclusion Act; House Sub. for SB 193

House Sub. for SB 193 amends the Freedom from Unsafe Restraint and Seclusion Act (Act) to add and clarify definitions; revises the standards for the use of emergency safety intervention (ESI); requires each local board to develop and implement policies governing the use of ESI; clarifies parent notification requirements after the use of ESI; expands the data to be compiled by the Kansas Department of Education (KSDE); clarifies the process for a parent to request a meeting with the school to discuss each incident involving the use of ESI; and changes the sunset for provisions of the Act from June 30, 2018, to June 30, 2020.

Definitions

The bill adds and revises definitions of key terms. The amended definition of ESI, formerly "the use of seclusion or physical restraint," clarifies it would not include the use of time-out. Further, the bill, by definition, distinguishes among the following types of officers: campus police officer, law enforcement officer and police officer, school resource officer, and school security officer.

Restrictions on the Use of ESI

The bill prohibits use of an ESI on a student when he or she is known to have a medical condition that could place the student in mental or physical danger if used. Prior law prohibited seclusion where a student was known to have such a medical condition, so the change from "seclusion" to "ESIs" further prohibits the use of physical restraint under these circumstances. The bill adds an exception to the use of seclusion and physical restraint if not subjecting the student to an ESI would result in significant physical harm to the student or others. The bill requires the written statement from the student's licensed health care provider to include an explanation of the student's diagnosis, a list of any reasons why an ESI would put the student in mental or physical danger, and any suggested alternatives to the use of ESIs.

The bill also prohibits the following types of restraints:

- Physical restraints that are prone (face-down), are supine (face-up), obstruct the student's airway, or impact a student's primary mode of communication;

- Chemical restraints, except as prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue such treatments; and

- Mechanical restraints, except:

    - Protective or stabilizing devices ordered by a person appropriately licensed to issue an order for the device or required by law;

- Any device used by a certified law enforcement officer in carrying out law enforcement duties; and

- Seat belts or any other safety equipment used to secure students during transportation.

Campus police officers and school resource officers are exempt from the requirements of the Act when engaged in an activity with a legitimate law enforcement purpose. However, school security officers are not exempt.

Local Board Written Policies on Use of ESI

The bill requires each local board to develop and implement written policies to govern the use of ESI in schools. At a minimum, the written policies must conform to the standards, definitions, and requirements of the Act. Written policies are required for:

- School personnel training;

- A local dispute resolution process;

- A system for the collection and maintenance of documentation for each use of ESI;

- A procedure for the periodic review of the use of ESI at each school, to be compiled and submitted at least biannually to the superintendent or the superintendent's designee; and

- A schedule for when and how parents are provided notice of the local board's policies on the use of ESI.

Written policies developed pursuant to the Act must be accessible on each school's website and included in each school's code of conduct, safety plan, or student handbook.

Parent Notification of Use of ESI

The bill amends requirements regarding the school's notification of a parent when ESI is used. If the school is unable to contact the parent, the school must attempt to contact the parent using at least two methods of contact. If the school attempts at least two methods of contact, the same-day notification requirement will be satisfied. A parent can designate a preferred method of contact to receive the required same-day notification and can agree, in writing, to receive only one same-day notification from the school for multiple incidents occurring on the same day.

The bill amends the required documentation of the use of an ESI to require the documentation be in writing and include the following:

- Events leading up to the incident;

- Student behaviors necessitating the ESI;
- Steps taken to transition the student back into the educational setting;
- The date and time the incident occurred, the type of ESI used, the duration of the ESI, and the school personnel who used or supervised the ESI;
- Space or an additional form for parents to provide feedback or comments to the school regarding the incident;
- A statement that invites and strongly encourages parents to schedule a meeting to discuss the incident and how to prevent future use of ESIs; and
- Email and phone information for the parent to contact the school to schedule the ESI meeting.

If the triggering issue necessitating the ESIs is the same, the school can group incidents together when documenting the events leading up to the incident, student behaviors that necessitated the ESI, and steps taken to transition the student back into the educational setting.

A parent can request the information required to be provided after the first incident of use of ESI during the school year be provided to the parent by e-mail, instead of in printed form. The bill requires the full and direct website address containing such information be provided to a parent on the occurrence of a second or subsequent incident.

If a school is aware a law enforcement officer or school resource officer has used seclusion, physical restraint, or mechanical restraint on a student, the school must notify the parent the same day using the parent's preferred method of contact. However, the school need not complete and provide written documentation of ESI use by law enforcement to a parent or to report the same to the KSDE. As it pertains to use by a law enforcement officer, mechanical restraint includes, but is not limited to, the use of handcuffs.

KSDE Aggregate Data Reports on Use of ESI

All statewide aggregate data required to be included in the KSDE's annual report to the Governor and House and Senate Education Committees on the use of ESI must be aggregated by gender and eligibility for free and reduced-price lunch. The law already requires statewide aggregate data to be reported by age and ethnicity. Further, the bill requires the KSDE Data Governance Board to use the actual data value when providing statewide aggregate data.

Meetings After Use of ESI

The bill amends when and how a parent can request a meeting following the use of ESI to allow for a discussion and debriefing after each incident, instead of after the third incident within a school year, as the law had provided. The parent can request such a meeting verbally, in writing, or by electronic means. The school must hold such a meeting within ten school days of the

parent's request, and the focus of the meeting is to discuss proactive ways to prevent the need for ESI and to reduce future incidents. The parent determines whether the student will be invited to the meeting. If a parent is unable to attend the meeting within the ten-school-day limit, the time for calling the meeting can be extended.

For any student with a Section 504 Plan, the bill requires the student's Section 504 team to discuss and consider the need for an evaluation under the Special Education for Exceptional Children Act at the meeting following the use of ESI.

For any student with an individual education plan (IEP) placed in a private school by a parent, the bill requires a meeting after the use of ESI to include the parent and the private school, who would consider whether the parent should request an IEP team meeting. If a parent requests an IEP team meeting, the bill requires the private school to help facilitate the meeting.

For a student who does not have an IEP or a Section 504 Plan, the bill requires the parent and school to discuss the incident and consider the appropriateness of a referral for an evaluation under the Special Education for Exceptional Children Act, the need for a functional behavior analysis, or the need for a behavior intervention plan.

Such meetings must include the student's parent, a school administrator for the school where the student attends, one of the student's teachers, a school employee involved in the incident, and other school employees designated by the school administrator as appropriate for such meeting.

Extending Sunset of School District Efficiency Audits; SB 312

SB 312 extends the sunset of a statute requiring the Legislative Division of Post Audit to conduct three school district efficiency audits each fiscal year from June 30, 2017, to June 30, 2020. The bill also allows a school district to decline participation in an efficiency audit if the district has participated in a similar audit in the past ten years. Previously, a school district could decline participation if it had participated in a similar audit in the past five years.

Jason Flatt Act (Suicide Awareness), Language Assessment Program, and Capital Improvement State Aid; Sub. for SB 323

Sub. for SB 323 enacts the Jason Flatt Act, establishes a language assessment program coordinated by the Kansas Commission for the Deaf and Hard of Hearing (KCDHH), and amends the capital improvement state aid formula.

Jason Flatt Act (Suicide Awareness)

The Jason Flatt Act requires the board of education of each school district to provide suicide awareness and prevention programming to all school staff. The bill requires such programming to include at least one hour of training each calendar year based on programs approved by the Kansas State Board of Education (Board), which could be satisfied through independent self-review of suicide prevention training materials and a building crisis plan developed for each school building, including steps for recognizing suicide ideation, appropriate methods of interventions,

and a crisis recovery plan. The bill also requires each school district to notify parents or legal guardians of students enrolled in such district that the training materials provided under such programming are available.

The bill prohibits a cause of action from being brought for any loss or damage caused by an act or omission resulting from the implementation of the provisions of the bill, or resulting from any training, or lack of training, required by the bill. Further, the bill states nothing in this section shall be construed to impose any specific duty of care.

The bill requires the Board to adopt rules and regulations necessary to implement the Jason Flatt Act by January 1, 2017.

Language Assessment Program

The bill establishes a language assessment program coordinated by the KCDHH with the purpose of assessing, monitoring, and tracking the language developmental milestones of children who are deaf or hard of hearing from birth to age eight. In addition to defining other key terms, the bill defines "language" as a complex and dynamic system of conventional symbols used in various modes for thought and communication. The recognized languages used in the education of children who are deaf and hard of hearing will be English and American Sign Language (ASL). The scope of the program includes children who may use one or more communication modes in ASL, English literacy, and, if applicable, spoken English and visual supplements.

On and after July 1, 2018, the bill requires an annual language assessment to be given in accordance with the bill's provisions and any rules and regulations adopted pursuant to the bill to each child who is deaf or hard of hearing and who is younger than age nine. The assessment will be provided either through early intervention services administered by the Kansas Department of Health and Environment (KDHE) or, if the child is age three or older, through the school district in which the child is enrolled.

The bill also establishes a 16-member advisory committee on the language assessment program (Advisory Committee) within the KCDHH. The Governor will appoint nine members with the following qualifications:

- A credentialed teacher of the deaf who uses both ASL and English during instruction;
- A credentialed teacher of the deaf who uses spoken English with or without visual supplements during instruction;
- A credentialed teacher of the deaf who has expertise in curriculum development and instruction of ASL and English;
- A credentialed teacher of the deaf who has expertise in assessing language development in both ASL and English;
- A speech language pathologist who has experience working with children from birth to age eight;

- A professional with a linguistic background who conducts research on language outcomes of children who are deaf or hard of hearing and use ASL and English;

- A parent of a child who is deaf and uses both ASL and English;

- A parent of a child who is deaf or hard of hearing and who uses spoken English with or without visual supplements; and

- A member who is knowledgeable about teaching and using both ASL and English in the education of children who are deaf and hard of hearing.

The remaining seven members, or their designees, will be ex officio members:

- The executive director of KCDHH;

- The coordinator of the Sound Start Program;

- The KCDHH member representing the State School for the Deaf;

- The KCDHH member representing KDHE;

- The KCDHH member representing the Board;

- The coordinator of the KDHE Early Intervention Program; and

- The coordinator of the Kansas State Department of Education (KSDE) Early Education Program.

The executive director of KCDHH will call an organizational meeting of the Advisory Committee on or before August 1, 2016, where the members will elect a Chairperson and Vice-chairperson. The bill authorizes the Advisory Committee to meet at any time and at any place within the state on the call of the Chairperson. The bill specifies a quorum as nine members and all actions of the Advisory Committee will be by motion adopted by a majority of members present when there is a quorum.

The Advisory Committee is charged with developing specific action plans and proposed rules and regulations necessary to fully implement the language assessment program by January 31, 2018, and will cease to exist after July 1, 2018. To carry out its charge, the bill requires the Advisory Committee to:

- Collaborate with the Coordinating Council on Early Childhood Developmental Services and the Kansas State Special Education Advisory Council;

- Solicit input from professionals trained in the language development and education of children who are deaf or hard of hearing on the selection of specific language developmental milestones;

- Review, recommend, and monitor the use of existing and available language assessments for children who are deaf or hard of hearing;

- Identify and recommend qualifications of language professionals with knowledge of the use of evidence-based, best practices in English and ASL who can be available to advocate at individualized family service plan (IFSP) and individualized education program (IEP) team meetings;

- Identify qualifications of language assessment evaluators with knowledge on the use of evidence-based, best practices with children who are deaf or hard of hearing and resources for locating such evaluators; and

- Identify procedures and methods for communicating information on language acquisition, assessment results, milestones, assessment tools used, and progress of the child to the parent or legal guardian of such child, teachers, and other professionals involved in the early intervention and education of such child.

The bill requires the specific action plans and proposed rules and regulations developed by the Advisory Committee to include the following:

- Language assessments that include data collections and timely tracking of the child's development so as to provide information about the child's receptive and expressive language compared to such child's linguistically age-appropriate peers who are not deaf or hard of hearing;

- Language assessments conducted in accordance with standardized norms and time lines in order to monitor and track language developmental milestones in receptive, expressive, social, and pragmatic language acquisition and developmental stages to show progress in ASL literacy, English literacy, or both for all children who are deaf or hard of hearing from birth to age eight;

- Language assessments delivered in the child's mode of communication and that have been validated for the specific purposes for which each assessment is used, and appropriately normed;

- Language assessments administered by individuals who are proficient in ASL for ASL assessments and English for English assessments;

- Use of assessment results, in addition to the assessment required by federal law, for guidance on the language developmental discussions by IFSP and IEP teams when assessing the child's progress in language development;

- Reporting of assessment results to the parents or legal guardian of the child and the applicable agency;

- Reporting of assessment results on an aggregated basis to the House and Senate Committees on Education; and

- Reporting of assessment results to the members of the child's IFSP or IEP team, which may be used, in addition to the assessment required by federal law, by the child's IFSP or IEP team, as applicable, to track the child's progress and to establish or modify the IFSP or IEP.

The bill requires KSDE, KDHE, and the State School for the Deaf to enter into interagency agreements with KCDHH to share statewide aggregate data. Further, on or before January 31, 2019, and annually thereafter, the bill requires KCDHH to publish a report specific to language and literacy development of children who are deaf or hard of hearing for each age from birth to age eight, including those who are deaf or hard of hearing and have other disabilities, relative to such children's peers who are not deaf or hard of hearing. The report will be based on existing data reported in compliance with the federally required state performance plan on pupils with disabilities. KCDHH also is required to publish the report on its website.

Capital Improvement State Aid for School Districts

The bill amends the capital improvement state aid formula (bond and interest state aid) for school districts' general obligation bonds approved at an election held on or after July 1, 2016. For such bonds, the bill places a cap on the total amount of capital improvement state aid available. This cap could not exceed the six-year average amount of capital improvement state aid as determined by the Board. The bill uses the same formula for calculating capital improvement state aid as exists under the block grant to school districts.

The bill requires the Board to determine this six-year average by calculating the average of the total amount of capital improvement state aid spent per year in the immediately preceding six fiscal years, but not including the current fiscal year.

The bill instructs the Board to use the following priorities (from highest to lowest priority) when allocating capital improvement state aid:

- Safety of the current facility and disability access to such facility as demonstrated by a State Fire Marshal Report, an inspection under the federal Americans with Disabilities Act, or other similar evaluation;

- Enrollment growth and imminent overcrowding as demonstrated by successive increases in enrollment of the school district in the immediately preceding three school years;

- Impact on the delivery of educational services as demonstrated by restrictive inflexible design or limitations on installation of technology; and

- Energy usage and other operational inefficiencies as demonstrated by a district-wide energy usage analysis, district-wide architectural analysis, or other similar evaluation.

The bill further instructs the Board, when allocating capital improvement state aid, to give a higher priority to school districts with a lower assessed valuation per pupil compared to other districts who are to receive capital improvement state aid. Further, the Board is required to provide approval of the amount of capital improvement state aid a district could expect to receive before the district holds a bond election.

At the beginning of the 2017 Legislative Session, and each year thereafter, the Board is required to submit a report to the Legislature including information on school district elections held on or after July 1, 2016, and the amount of capital improvement state aid approved.

Nurse Educator Service Scholarship Program Act; SB 358

SB 358 amends definitions in the Nurse Educator Service Scholarship Program Act. The bill adds to the definition of "school of nursing" "accredited independent institution," which is defined as a not-for-profit institution of higher education that has its main campus or principal place of operation in Kansas, is operated independently and not controlled or administered by the state, maintains open enrollment, and holds accreditation to grant a master of science or doctoral degree in nurse education or nursing administration from a national accrediting entity recognized by the U.S. Department of Education. Further, the bill defines "open enrollment" as having the meaning found in KSA 2015 Supp. 74-32,120: the policy of an institution of higher education which provides the opportunity of enrollment for any student who meets its academic and other reasonable enrollment requirements, without regard for race, gender, religion, creed, or national origin.

Student Online Protection; Senate Sub. for HB 2008

Senate Sub. for HB 2008 enacts the Student Online Personal Protection Act (SOPPA). The bill prohibits an operator (defined as the operator of an educational online product with actual knowledge the product is used primarily for educational purposes and was designed and marketed for educational purposes) from knowingly:

- Engaging in targeted advertising on the operator's educational online product or targeting advertising on any other educational online product using information, including student information and persistent unique identifiers, the operator has acquired because of the use of such operator's educational online product for educational purposes;

- Using information, including student information and persistent unique identifiers, created or gathered through the operation of the operator's educational online product, to amass a profile about a student, except in furtherance of educational purposes;

- Selling or renting student information to a third party, except as part of the assets being transferred during the purchase, merger, or other acquisition of an operator by another entity, provided the successor entity complies with the provisions of this subsection as though it were an operator with respect to the acquired information; or

- Disclosing student information, except as provided.

For the purposes of the bill, the term "operator" is not be construed to include any school district or school district employee acting on behalf of a school district employer.

Operators are required to:

- Implement and maintain reasonable security procedures and practices appropriate to the nature of the student information and designed to protect such information from unauthorized access, destruction, use, modification, or disclosure; and

- Delete student information within a reasonable period of time at the school district's request, unless the student or student's parent or legal guardian requests that information be maintained.

The bill also outlines several instances when an operator may disclose information, including the following:

- For legitimate research purposes subject to and as allowed by federal and state law, and under the direction of a school district or the Kansas State Department of Education, provided the information is not used for advertising or to amass a profile on the student for any purpose other than educational purposes;

- A student's first and last name and test results upon request by a school district or state agency for educational purposes;

- To law enforcement agencies or to a court of competent jurisdiction to protect the safety or integrity of users of the operator's educational online product or other individuals, or the security of such educational online product;

- For educational or employment purposes upon request by the student or the student's parent or legal guardian, provided the student information is not used or further disclosed for any other purpose;

- To a service provider, so long as the service provider is contractually prohibited from using student information for any purpose other than providing the contracted service, prohibited from disclosing student information to subsequent third parties, and required to implement and maintain reasonable security procedures and practices to ensure confidentiality; and

- In the course of transferring assets as part of a business purchase, merger, or other acquisition, as described above.

The bill clarifies other instances where the bill's provisions are not intended to apply and defines key terms.

Finally, the bill allows the Attorney General or any district attorney to enforce SOPPA by bringing an action in a court of competent jurisdiction and to seek injunctive relief to enjoin an operator in possession of student information from disclosing any student information in violation of SOPPA.

Postsecondary Changes; HB 2622

HB 2622 amends the law concerning higher education. Specifically, the bill adds provisions concerning degree prospectus publication and the acceptance of College Level Examination Program (CLEP) credits. Additionally, the bill amends fees charged by the Kansas Board of Regents (Board) and funding of career technical education (CTE) performance-based incentives.

Degree Prospectus

The bill requires the Board to publish a degree prospectus for each undergraduate degree program offered by each postsecondary educational institution featuring information and statistics on the degree program. The information required in the degree prospectus includes a description of the degree; the average years taken to obtain the degree; the expected number of credit hours required to obtain the degree; the aggregate cost and cost per year incurred by an individual to obtain the degree; the aggregate degree investment incurred by an individual subtracting grants and scholarships awarded; the median wage of recent graduates from such degree program and median wages after five years; the percent of graduates who obtain the degree and become employed in the field from such institution; percentage of graduates who are employed within one year from entry into the workforce; and the number of years required to fully recoup the degree investment incurred by an individual.

The bill also requires the Board to make the degree prospectus information available on a link on its official website and requires each postsecondary educational institution to make such information available through a link on the home page of each institution's official website. The bill requires the degree prospectus information to be promoted on web pages dedicated to the promotion of a degree program, promoted to each student who inquires about the degree program, and promoted whenever a hard copy of materials concerning the degree program is provided.

The bill requires the degree prospectus information to be provided for any state education institution and municipal university for school year 2016-17 and all years thereafter and requires the information to be provided by community colleges, technical colleges, and institutes of technology for school year 2017-18 and all years thereafter.

The bill authorizes the Board to adopt rules and regulations necessary to implement these provisions.

CLEP Credits

The bill requires the Board to adopt a policy, on or before January 1, 2017, requiring state educational institutions to award the appropriate number of credit hours to any student enrolled in such institution who has successfully passed an exam administered through CLEP and received a credit-granting recommended score as outlined by the American Council on Education. Commencing July 1, 2017, the bill requires each state educational institution to award credit hours to enrolled students who have successfully passed a CLEP exam in accordance with such policy. The bill requires the following to be included in the policy:

- The number of credit hours to be awarded will be at least equivalent to the minimum number of credit hours granted for the equivalent course offered by the institution;
- An institution will be prohibited from limiting the number of credit hours that may be awarded to a student beyond the limitations placed on such institution by its regional accrediting agency;
- Credit hours awarded for exams in the subject of the student's major course of study will apply to the student's degree program major course of study, and all other credit hours will apply to general degree requirements;
- Credit hours for exams will be listed on the student's transcripts as pass/fail;
- All exams listed on a student's transcript will be included on such transcript if the student transfers to a different postsecondary educational institution and, if the subsequent institution is a state educational institution, the credit hours for such exams will be applied in accordance with the bill's provisions; and
- Any other provisions related to the awarding of credit hours based on CLEP exam results deemed necessary by the Board.

The bill specifies "State Board of Regents" and "state educational institution" will have the same meanings as those terms are defined in the Kansas Higher Education Coordination Act.

CTE Performance-Based Incentives

The bill amends the postsecondary CTE performance-based incentive funding statute by adding Johnson County Community College to the definition of "eligible postsecondary educational institution."

Fees Charged by the Board

Finally, the bill amends the statute governing fees charged by the Board to amend the scope of fees assessed to institutions "domiciled" and having their principal place of business in Kansas, replacing "domiciled" with "chartered, incorporated or otherwise organized under the laws of Kansas."

The bill increases the fee charged by the Board for processing and issuing GED credentials from $15 to $25. Additionally, the bill reduces the minimum fees collected for Kansas institutions' application renewals, including branch campus site renewals, from $800 to $500 for non-degree-granting institutions and from $1,600 to $1,000 for degree-granting institutions. The deadline for submitting renewal applications changes to at least 60 days prior to expiration, and the late fee for application renewals increases from $125 to $500.

Out-of-state institution renewal fees decrease from $2,400 to $1,000 for non-degree-granting institutions and from $3,000 to $2,000 for degree-granting institutions.

The bill also repeals the statute creating the Advisory Commission on Private and Out-of-State Postsecondary Educational Institutions, as well as a statute limiting the amounts these institutions could collect prior to students receiving classroom instruction.

School Finance; Senate Sub. for HB 2655

Senate Sub. for HB 2655 amends statutes relating to school finance. Specifically, the bill alters statutory formulas for providing Supplemental General State Aid and Capital Outlay State Aid for FY 2017; amends law related to the School District Extraordinary Need Fund (Extraordinary Need Fund); provides for School District Equalization State Aid; changes a non-severability provision to a severability provision; and amends law related to ancillary school facilities state aid. The bill makes necessary appropriations for the statutory changes in the bill.

Appropriations

The bill appropriates $367,582,721 for Supplemental General State Aid, $50,780,296 for Capital Outlay State Aid, and $61,792,947 for School District Equalization State Aid. The bill also changes the appropriation for the Extraordinary Need Fund from $17,521,425 to $15,167,962, and lapses $477,802,500 from the block grants to unified school districts for fiscal year 2017.

The bill also provides that, if the appropriated amounts for Supplemental General State Aid or Capital Outlay State Aid are not sufficient to fund the statutory requirements for those two categories of aid, the amount of money necessary to satisfy such statutory requirements shall be transferred out of the Extraordinary Need Fund.

Supplemental General State Aid

The formula replaces the amount of Supplemental General State Aid provided by House Sub. for SB 7 enacted in 2015 with a new formula for determining the amount of Supplemental General State Aid. Under the new formula, a school district's Supplemental General State Aid is determined by multiplying the school district's local option budget by an equalization factor. The equalization factor is determined by arranging the assessed valuation per pupil (AVPP) of all school districts from largest to smallest, rounding the AVPPs to the nearest $1,000 and identifying the median. The equalization factor of the median is 25 percent. For every $1,000 a school district's AVPP is above the median, the school district's equalization factor is reduced from 25 percent by 1 percent and for every $1,000 a school district's AVPP is below the median, the school district's equalization factor is increased from 25 percent by 1 percent.

Capital Outlay State Aid

The bill reinstates the Capital Outlay State Aid formula that was in effect prior to the enactment of 2015 House Sub. for SB 7.

Extraordinary Need Fund

The bill also gives the State Board of Education (Board) the authority to review and decide upon school district applications for funds from the Extraordinary Need Fund. (Prior law gave the State Finance Council authority to review and act upon such applications.) Whether a school district has reasonably equal access to substantially similar educational opportunity through similar tax effort is added as a factor the Board is required to consider in evaluating an application for funds from the Extraordinary Need Fund.

School District Equalization State Aid

The bill provides funds to school districts if the changes to Supplemental General State Aid or Capital Outlay State Aid in the bill resulted in the school districts being entitled to less state aid than under prior law.

Severability

The bill changes the non-severability provision in KSA 2015 Supp. 72-6481 to a provision specifically allowing the provisions of the Classroom Learning Assuring Student Success (CLASS) Act, included in 2015 House Sub. for SB 7, to be severed and for the provisions of the bill to be severed.

Ancillary School Facilities

The bill also amends statutes related to the authority of a school district to levy a tax for the purpose of financing the costs incurred that are directly attributable to ancillary school facilities. The bill allows the levying of the tax for the operation of a school facility whose construction was financed by the issuance of bonds approved for issuance at an election held on or before June 30, 2016.

ELECTIONS AND ETHICS

Elections; HB 2558

HB 2558 addresses the following two aspects of election law:

- The bill prohibits cities and counties from regulating or prohibiting certain actions related to door-to-door campaigning for elective office: canvassing, polling, soliciting, or otherwise approaching private residences for the purpose of distributing campaign literature or campaigning for a candidate; and

- The bill permits hospital districts to hold elections in even-numbered years (in addition to odd-numbered years) for the purpose of staggering terms of office, as well as specifying that hospital board terms of office may be three years, in addition to the currently specified four years, also for the purpose of allowing for staggered terms.

ENERGY AND UTILITIES

Kansas Electric Transmission Authority; Federal Clean Power Plan; SB 318

SB 318 repeals the Kansas Electric Transmission Authority Act statutes that established the Kansas Electric Transmission Authority (KETA). The bill abolishes the KETA Administrative Fund and the KETA Development Fund and transfers all liabilities of those funds to the Public Service Regulation Fund of the Kansas Corporation Commission (KCC). In addition, the bill transfers $45,000 from the KETA Administrative Fund to the State General Fund and transfers any remaining moneys from the KETA funds to the Public Service Regulation Fund of the KCC.

In addition, the bill suspends all state agency activities, studies, and investigations that are in furtherance of the preparation of an initial submittal, or the evaluation of any options for the submission, of a final state plan pursuant to the U.S. Environmental Protection Agency docket EPA-HQ-OAR-2013-0602, codified as 40 CFR part 60 (Clean Power Plan). The suspension of state agency activities will continue until the stay on the implementation of the Clean Power Plan is lifted. (The U.S. Supreme Court issued a stay on February 9, 2016, with regard to the implementation of the Clean Power Plan.) State agencies will still be able to communicate with, or provide information amongst, each other in furtherance of any of the agency's statutory obligations.

Water District Easements; SB 412

SB 412 authorizes Water District Number 1 (WaterOne) of Johnson County, Kansas, to use an existing easement located along the south and north banks of the Kansas River granted by the state for the purpose of locating, constructing, maintaining, and operating hydropower generation equipment and facilities for the production of electricity. WaterOne assumes full responsibility for using the easement in this manner. WaterOne had been authorized to use the easement only for the diversion of water to its facility.

Siting of Wireless Telecommunications Infrastructure; Permit Application Process Between Wireless Service Providers and Municipalities; Kansas Universal Service Fund; Senate Sub. for HB 2131

Senate Sub. for HB 2131 creates law concerning the siting of wireless telecommunications infrastructure and the permit application process between wireless service providers and municipalities. In addition, the bill amends law regarding rural telephone companies and the Kansas Universal Service Fund (KUSF). The bill makes several changes to how a rural telephone company changes its local service rates, how KUSF support for rate of return carriers is determined, and the regulation of rural telephone companies that use VoIP or IP-enabled services.

Siting of Wireless Telecommunications Infrastructure

The bill establishes the Kansas Legislature finds and declares that wireless facilities are critical for Kansas citizens to have access to broadband and other advanced technology and information, along with the facilities being critical for the state's economy, and that the facilities are matters of statewide concern and interest.

Definitions

The following terms are among the 24 terms defined in the bill.

"Authority" means any governing body, board, agency, office, or commission of a city, county, or the State that is authorized by law to make legislative, quasi-judicial, or administrative decisions concerning an application. "Authority" does not include any school district, as defined in law, or any court having jurisdiction over land use, planning, zoning, or other decisions made by an authority.

"Public right-of-way" means only the area of real property in which the authority has a dedicated or acquired right-of-way interest in the real property. It includes the area on, below, or above present and future streets, alleys, avenues, roads, highways, parkways, or boulevards dedicated or acquired as right-of-way. "Public right-of-way" does not include any state, federal, or interstate highway right-of-way, which generally includes the area that runs contiguous to, parallel with, and is generally equidistant from the center of that portion of the highway improved, designed, or ordinarily used for public travel.

"Small cell facility" means a wireless facility that meets both of the following qualifications:

- Each antenna is located inside an enclosure of no more than six cubic feet in volume, or in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements can fit within an imaginary enclosure of no more than six cubic feet; and

- Primary equipment enclosures that are no larger than 17 cubic feet in volume, or facilities comprised of such higher limits as the Federal Communications Commission (FCC) has excluded from review pursuant to federal law. Associated equipment can be located outside the primary equipment and, if so located, is not to be included in the calculation of equipment volume. (Under the bill, associated equipment includes, but is not limited to, any electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.)

"Small cell network" means a collection of interrelated small cell facilities designed to deliver wireless service.

"Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including, but not limited to:

- Equipment associated with wireless services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and

- Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.

Fees

The bill establishes the application process for the siting of a wireless facility, including:

- The types of fees that an authority can or cannot charge or assess;
- The expenses that an authority can incur during an application review; and
- The cap on total charges and fees that can be assessed by the authority.

In addition, the authority will not be allowed to charge a fee to locate a wireless facility or support structure on any public right-of-way controlled by the authority, if the authority does not charge other providers for the same use. If the authority does charge other providers, then the fee charged to locate a wireless facility will be required to be competitively neutral and not unreasonable or discriminatory.

Construction, Maintenance, and Operation of Wireless Services within the Public Right-of-way

The wireless service provider will have the right to construct, maintain, and operate wireless services along, across, upon, under, or above the public right-of-way. The bill further specifies this provision should not be interpreted to grant any right to construct, maintain, or operate wireless services on property owned by the authority outside the public right-of-way.

The right to construct, maintain, and operate wireless services within the public right-of-way will always be subject and subordinate to the reasonable public health, safety, and welfare requirements and regulations of the authority, about which the authority may exercise its Home Rule powers, so long as doing so is competitively neutral and not unreasonable. Additionally, the authority may prohibit use or occupation of a part of the public right-of-way due to a reasonable public interest, so long as the reason is competitively neutral and not unreasonable or discriminatory.

The authority will be permitted to require a wireless services provider to repair damage to a public right-of-way that is caused by the activities of that provider or provider's agent while occupying, installing, repairing, or maintaining facilities in the public right-of-way. The authority also will have the ability to request a wireless services provider to relocate or adjust its facilities within the public right-of-way at no cost to the authority, as long as the request similarly binds all users of the right-of-way. The bill will require the authority to provide advance notice and for the relocation be directly related to public health, safety, or welfare.

The authority will have a cause of action against a provider for violation of this law that causes damages and can recover damages, including reasonable attorney fees, if the provider is found liable by a court of competent jurisdiction.

Wireless services and infrastructure providers will be required to indemnify and hold the authority harmless against any claims, lawsuits, judgments, costs, liens, losses, expenses, and fees to the extent it is found by a court of competent jurisdiction to be caused by the negligence of the wireless services or infrastructure provider.

An authority will have the ability to enter into a lease with an applicant for the use of public lands, buildings, and facilities, with the offered leases being at least ten years in duration, unless otherwise agreed to by both the applicant and the authority, and at market rates. Charges for placement of wireless facilities on public lands, if the authority chooses to charge, are required to be competitively neutral and not unreasonable, discriminatory, or in violation of existing federal or state law.

Limits on the Authority

To ensure uniformity across the state with respect to consideration of every application, the bill establishes 18 restrictions on the authority regarding what information can or cannot be required during the application process. The bill specifies the new law does not apply to military installations and would clarify the authority cannot impose restrictions at or near civilian airports. The bill also requires the authority to consider input from property owners adjoining the affected public right-of-way.

Small Cell Networks

Applicants for small cell networks involving no more than 25 individual small cell facilities of substantially similar design will be permitted to file a consolidated application and receive a single permit for the installation, construction, maintenance, and repair of a small cell network, instead of filing separate applications for each individual facility. The authority will be required to render a decision no later than 60 days after the submission of an application regarding small cell facilities.

Timing for Review

The authority will be required to review an application, make a final decision, and advise the applicant of the decision in writing within 150 calendar days of receiving an application for a new wireless support structure or within 90 calendar days of receiving an application for a substantial modification to an existing wireless support structure, or any other application that will not constitute an eligible facilities request as defined in federal law.

The bill also provides for a time period when applications are found to be incomplete and will require approval of an application if the authority fails to act on an application within the required time frame. The authority cannot institute any moratorium on applications.

Interior Structures

The bill allows the authority to continue to exercise zoning, land use, planning, and permitting authority within the authority's territorial boundaries, with regard to the siting of new or the modification of existing wireless structures. The bill restricts the authority's ability to exercise any zoning or siting jurisdiction, authority, and control over the construction, installation, or operation of any small cell facility or distributed antennae system located in an interior structure or upon the site of any campus, stadium, or athletic facility.

Definition of "Provider" Clarified

The bill specifies the definition of "provider" in a continuing statute does not include an applicant as defined above.

Effective Date

The provisions regarding siting of wireless telecommunications infrastructure will take effect on and after October 1, 2016, and upon publication in the statute book.

Kansas Universal Service Fund

Limitation on Use of KUSF

The bill restricts a local exchange carrier (LEC) electing to operate under traditional rate of return regulation, or an entity in which a carrier directly or indirectly owns an equity interest of 10.0 percent or more, from using KUSF funding. An exception exists for Kansas Lifeline Service Program purposes, providing telecommunication services in an area outside the carrier's authorized service area.

Price Regulation of Telecommunications Services

Rates for the initial residential local exchange access line and up to four business local exchange access lines at one location will remain subject to price cap regulation and all other rates, except rates for switched-access services, will be deemed price-deregulated.

In addition, the LEC will be authorized to adjust rates, without the Kansas Corporation Commission's (KCC) approval, by not more than the greater of the percentage increase in the consumer price index for all urban consumers or the amount necessary to maintain the local rate floor as determined by the FCC in any one-year period, and the rates cannot be adjusted below the price floor established in continuing law.

Reporting Requirements

The bill removes the requirement for the KCC to determine the weighted, statewide average rate of non-wireless basic local telecommunications service and telecommunications services in exchanges that have been price-deregulated and report that information annually to the Governor, the Legislature, and each member of the standing committees of the House and Senate that are assigned telecommunications issues. The bill also eliminates the KCC's annual reporting requirement on the current rates for services provided by all telecommunications carriers, services in price-deregulated exchanges, service offerings, and number of competitors in price-deregulated exchanges.

Individual Customer Pricing

The bill allows a LEC to offer individual customer pricing without prior approval by the KCC. In response to a complaint filed with the KCC that an individual customer pricing agreement is priced

below the price floor set forth in continuing law, the KCC will be required to issue an order within 60 days after the filing, unless the complainant agrees to an extension.

Application by Rural Telephone Companies; FUSF Support

The KCC will be required to approve an application within 45 days by a rural telephone company to increase the company's local service rates in a necessary amount for the company to maintain eligibility for full Federal Universal Service Fund (FUSF) support. If the KCC does not approve the application within 45 days, the application will be deemed approved.

KUSF Contributions and Support; Regulation

The bill changes the required contributions to the KUSF to be based upon the provider's intrastate telecommunications services net retail revenues on an equitable and non-discriminatory basis. (Prior law required KUSF contributions to be on an equitable and non-discriminatory basis.) In addition, the KCC will be restricted from requiring any provider to contribute to the KUSF under a different contribution methodology than the provider uses for purposes of the FUSF, including for bundled offerings.

Additionally, for each LEC electing to operate under traditional rate of return regulation, all KUSF support will ensure the reasonable opportunity for recovery of the carrier's intrastate embedded costs, revenue requirements, investments, and expenses, subject to the annual cap of $30.0 million.

No KUSF support received by a LEC electing to operate under traditional rate of return regulation will be allowed to be used to offset any reduction of FUSF support for recovery of the carrier's interstate costs and investments.

In any year the total KUSF support for carriers may exceed the annual cap of $30.0 million, each carrier's KUSF support will be proportionately based on the amount of support each carrier would have received, absent the cap.

The bill also specifies that law regarding regulation of VoIP services, IP-enabled services, or any combination thereof cannot be construed to modify the regulation of any rural telephone company.

ENVIRONMENT

Economic Development of Environmentally Contaminated Property; House Sub. for SB 227

House Sub. for SB 227 establishes the Contaminated Property Redevelopment Act, which allows a purchaser of real property acquired after July 1, 2016, to be released from environmental liability for pre-existing contamination. The bill also creates a redevelopment program for municipalities.

A purchaser, as defined by the bill, is allowed to apply to the Kansas Department of Health and Environment (KDHE) for a Certificate of Environmental Liability Release (CELR) by providing the following documentation:

- Phase I or Phase II environmental reports completed within industry standards;
- Environmental assessment reports completed within industry standards; or
- Other reports requested by KDHE.

Within 15 business days after receiving the purchaser's documentation, KDHE will be required to make the following findings:

- The property is contaminated, not including radon, lead-based paint, or asbestos;
- The purchaser is not responsible for the contamination;
- The property is:
    - Not owned by the purchaser;
    - Owned by the purchaser and was acquired through seizure, condemnation, foreclosure, or default; or
    - Owned by the State or any political or taxing subdivision;
- If the purchaser is a current owner, the purchaser could not have foreseen the threat of contamination and failed to take steps to prevent the contamination;
- There is no relationship between the purchaser and the party responsible for the contamination, other than the real property transaction; and
- The property has met the following conditions:

- The purchaser has not caused or exacerbated, and will not exacerbate, the contamination;

- The purchaser agrees to disclose the CELR to subsequent purchasers until the property may be used for any use;

- The purchaser agrees to grant access for future environmental investigation and remediation by KDHE; and

- The purchaser agrees to provide KDHE with notice within 30 days of any transfer or sale of the property covered by the CELR.

If KDHE makes those findings, the property will be eligible.

Property will not be eligible for a CELR if:

- The contamination is subject to regulation under the Kansas Nuclear Energy Development and Radiation Control Act;

- The property is the source of contamination and eligible for cleanup under the Kansas Storage Tank Act or the Kansas Drycleaner Environmental Response Act, unless the site has been enrolled in the applicable cleanup program;

- The property is the source of contamination and is either on the list of federal Superfund sites or proposed to be listed;

- The purchaser agrees for the contaminated property to be investigated or remediated; or

- The purchaser has provided indemnification or release of environmental liability to another party.

A CELR, which will not be transferable, will not relieve the purchaser of the requirements or duties of an applicable environmental use control agreement or risk management plan. A person may request KDHE to modify a CELR. If KDHE denies a request, a written justification will be sent to the person within 30 days.

A CELR will be revoked or made void if the purchaser:

- Failed to grant access to the property, as required by the bill;

- Exacerbated the contamination or interfered with KDHE's approved remedy for the property; or

- Acquired liability for the contamination through contract, law, or other mechanism.

If fraudulent information is provided to KDHE, the Secretary will be permitted to modify or revoke a CELR, including an order to clean up the site and an administrative penalty of up to $500 per day. A purchaser will be required to pay a fee, which will not exceed $2,000 and will be set by KDHE by rules and regulations. A refund will be issued, less the amount expended to process the application, if KDHE did not issue a CELR. Persons adversely affected by any decision will have 15 days to request a hearing, which will be conducted in accordance with the Kansas Administrative Procedure Act. KDHE will not acquire liability under the provisions of the bill.

The bill establishes the Contaminated Property Redevelopment Fund, which will be administered by the Secretary of Health and Environment. The Fund will receive moneys from fees for CELR applications; the federal Brownfields Program; gifts, grants, reimbursements, or appropriations; interest; penalties; and repayment of brownfields loans. The Fund, pursuant to appropriation acts, will be used for the administration of the bill and grants and loans to municipalities for brownfields projects.

The bill states the Secretary of Health and Environment may adopt rules and regulations to implement the provisions of the Act.

Asbestos—Elimination of State Training and Certification Requirements; HB 2516

HB 2516 eliminates requirements for Kansas-specific training and certification of individuals who perform asbestos abatement work. The bill instead requires these individuals to meet federal training requirements, which are identical to current state requirements. The time period for which companies licensed under the Asbestos Control Act are required to keep records of employee training is reduced from six years to three years to be consistent with the document retention policies of other Kansas air programs.

The bill removes the requirement for the Secretary of Health and Environment to establish a schedule of fees for certification by rules and regulations.

The bill retains training, licensing, and certification fees in the State General Fund.

FEDERAL AND STATE AFFAIRS

Interstate Compact for Recognition of Emergency Medical Personnel Licensure; SB 225

SB 225 enacts the Interstate Compact for Recognition of Emergency Medical Personnel Licensure (Compact). The Compact is designed to achieve the following purposes and objectives:

- Increase public access to emergency medical service (EMS) personnel;
- Enhance states' ability to protect the public's health and safety, especially patient safety;
- Encourage the cooperation of member states in the areas of EMS personnel licensure and regulation;
- Support licensing of military members who are separating from an active duty tour and their spouses;
- Facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action, and significant investigatory information;
- Promote compliance with the laws governing EMS personnel practice in each member state; and
- Invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

The Compact will create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice (Commission), with each member state limited to one delegate who would have one vote with regard to the promulgation of rules and creation of bylaws and participate in the business and affairs of the Commission.

Oversight of the Compact is the responsibility of the executive, legislative, and judicial branches of the state government in each member state, and each state is required to take all actions necessary and appropriate to effectuate the Compact's purposes and intent. Provisions of the Compact and the rules promulgated by the Commission will have standing as statutory law.

The Compact becomes effective on the date on which the Compact is enacted into law in the tenth member state. The provisions that become effective at that time are limited to the powers granted to the Commission relating to assembly and promulgation of rules. Any member state can withdraw from the Compact by enacting a statute repealing the Compact, but the withdrawal cannot take effect until six months after enactment of the repealing statute.

Compact Between the Prairie Band Potawatomi Nation and the State of Kansas; SB 484

SB 484 approves and adopts by reference as state law the compact relating to cigarette and tobacco sales, taxation, and escrow collection between the Prairie Band Potawatomi Nation and the State of Kansas printed in the Journal of the House and the Journal of the Senate on March 2, 2016. The bill requires the Secretary of State to publish the Compact in the *Kansas Register*.

Compact Between the Iowa Tribe of Kansas and Nebraska and the State of Kansas; SB 485

SB 485 approves and adopts by reference as state law the compact relating to cigarette and tobacco sales and taxation between the Iowa Tribe of Kansas and Nebraska and the State of Kansas printed in the Journal of the House and the Journal of the Senate on March 2, 2016. The bill requires the Secretary of State to publish the Compact in the *Kansas Register*.

Terrorist Detainees; HCR 5024

HCR 5024 urges the President of the United States to declare the detention facility at Naval Station Guantanamo Bay will remain and terrorist detainees will not be transferred to Fort Leavenworth. The resolution states Fort Leavenworth does not have the necessary facilities to hold and care for the detainees and does not have the law enforcement or emergency response resources or the physical capability to harden potential civilian targets, and that a transfer of terrorist detainees would unnecessarily and intentionally put American citizens at much greater risk. In addition, officers from other countries who attend classes at Fort Leavenworth may choose not to bring their families, or might not be permitted by their countries to attend, if detainees were transferred to Fort Leavenworth, which would hurt the local economy and potentially affect the country's future ability to effectively find peaceful solutions to international problems.

FINANCIAL INSTITUTIONS

Kansas Mortgage Business Act Amendments; SB 369

SB 369 makes several amendments to the Kansas Mortgage Business Act (KMBA).

Definitions

The bill defines the following terms:

- Application—the submission of a consumer's financial information, including the consumer's name, income, and Social Security number to obtain a credit report; the property address; an estimate of the value of the property; and the mortgage loan amount sought, for the purpose of obtaining an extension of credit;

- Individual—a human being;

- Mortgage servicer—any person engaged in mortgage servicing;

- Mortgage servicing—collecting payment, remitting payment for another, or the right to collect or remit payment of any of the following: principal, interest, tax, insurance, or other payment under a mortgage loan; and

- Not-for-profit—a business entity that is granted tax-exempt status by the Internal Revenue Service.

The bill also updates the definition of "mortgage business" to include the business of holding the rights to mortgage loans in the primary market. The term "mortgage business" is found in various provisions to incorporate all activities mortgage companies engage in under the KMBA. The bill updates the definition of "primary market" to mean a market where a mortgage business is conducted, including activities conducted by any person who assumes or accepts any mortgage business responsibilities of the original parties to the transaction. Additionally, the bill clarifies and reorders other existing definitions.

Entities Exempt from Licensing Requirements

The bill adds not-for-profit entities providing loans in conjunction with a mission of building or rehabilitating affordable homes to low-income consumers to the list of entities exempt from the licensing requirements of the KMBA.

The bill also specifies that any person licensed as a supervised lender under the Uniform Consumer Credit Code (UCCC) [KSA 2015 Supp. 16a-2-301 *et seq*.] and who conducts mortgage business is no longer exempt from licensing requirements and therefore is a Kansas mortgage company licensed under the KMBA. [*Note:* An estimated 150 supervised lenders that conduct

mortgage business are no longer required to file notification forms and associated annual and volume fees as supervised lenders under the UCCC by moving to being licensed under the KMBA.]

Licensing Requirements

Under the bill, non-depository entities conducting mortgage business are required to be licensed under the KMBA. The bill also states a license or registration becomes effective as of the date specified in writing by the State Bank Commissioner (Commissioner). The definition of Commissioner is modified to include the Commissioner's designee, who is the Deputy Commissioner of the Consumer and Mortgage Lending Division of the Office of the State Bank Commissioner.

Display of License

The bill removes the requirement that a licensed mortgage company display its paper license on or in a physical building of its principal place of business and any branch office. Instead, the bill requires the company to make evidence of the licensure of each licensed location in a way that reasonably assures recognition by consumers and members of the general public, which could mean posted electronically.

Solicitations and Advertisements

The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (commonly referred to as the SAFE Act) requires a mortgage business to display its Nationwide Mortgage Licensing System and Registry (NMLS) license number on solicitations and advertisements. The bill removes the requirement that the company also display a separate Kansas license number. The mortgage company is required to maintain a record of all solicitations and advertisements for 36 months.

New Powers Granted to the Commissioner

The bill grants the Commissioner the authority to receive and act on consumer complaints. The Commissioner is able to provide guidance to persons and groups on their rights and duties under the KMBA.

Additionally, the bill permits the Commissioner to enter into any informal agreement, rather than a formal order, with a mortgage company for a plan of action to address violations of law. The informal agreement will not be subject to the Kansas Administrative Procedure Act (KAPA), the Kansas Judicial Review Act, or the Kansas Open Records Act. The informal agreement will not be considered an order or other agency action and will be considered confidential examination material. Additionally, the informal agreement will not be subject to subpoena, discovery, or admissible in evidence in any private civil action. The provisions relating to informal agreements expire on July 1, 2021.

The bill allows the Commissioner to issue, amend, and revoke written administrative guidance documents in accordance with KAPA.

Waiver of Liability

The bill specifies that no liability will be imposed under the KMBA for an act done or omitted by rule and regulation or written administrative interpretation of the Commissioner, except for refund of an excess charge. After the act or omission, the rule and regulation or written administrative interpretation may be determined by judicial or other authority to be invalid.

Compliance Requirements for Mortgage Companies with No Bona Fide Office

The bill clarifies bond requirements for a mortgage company with no bona fide office to be the same as those for a company with a bona fide office, except the surety bond requirement will continue to differ. (Continuing law requires a $100,000 surety bond for a mortgage company that does not maintain a *bona fide* office, and a $50,000 surety bond for a company that maintains a *bona fide* office.)

Further, the bill allows a mortgage company with no bona fide office to submit a consolidated financial statement of the parent company, in lieu of a separate balance sheet, in order to satisfy a minimum net worth of $50,000.

Information Provided by the Mortgage Company

The bill removes the requirement that a mortgage company maintain a journal of mortgage transactions. The bill clarifies the documentation a company must maintain for a mortgage transaction to be held and made available to the Commissioner, including:

- The name, address, and telephone number of each loan applicant;
- The type of loan applied for and the date of application; and
- The disposition of each loan application, including the date of loan funding; loan denial; withdrawal; name of lender, if applicable; and name of the loan originator and any compensation or other fees received by the loan originator.

Annual Report

The bill amends the annual reporting requirements for mortgage companies to include reports filed with the NMLS.

Pooled Money Investment Board; SB 387

SB 387 enacts and amends law recognizing the Pooled Money Investment Board (PMIB) as a separate state agency for the purposes of budgetary preparations and reporting.

The bill requires budget estimates and requests of the PMIB to be separate from those associated with the State Treasurer and requires this separation to be maintained in the documents

and reports prepared by the Director of the Budget and the Governor, including all reports and measures submitted to the Legislature.

The bill also eliminates current provisions linking the State Treasurer and PMIB for the purposes of the budget, office space, services, and equipment, and other related functions.

Banking Code Amendments; Savings Promotion Programs; SB 390

SB 390 amends and makes technical updates to provisions in the Kansas Banking Code [statutes are noted] and enacts new law to allow banks, credit unions, and other specified financial institutions to conduct savings promotion programs.

Banking Code—Amendments

In addition to making technical amendments, the bill addresses:

- **The naming of trust companies and trust service offices.** The bill modifies an application requirement relating to the name of a proposed trust company or a trust company seeking to change its name to specify the selected name must be either different (continuing law) or substantially dissimilar from that of any other trust company [KSA 2015 Supp. 9-801; KSA 2015 Supp. 9-814]. The bill also modifies an application requirement for a proposed trust service office to specify the selected name cannot be the same as or substantially similar to the name of any other trust company or trust service office doing business in Kansas.

  Further, upon a request of a trust company to relocate an existing trust service office less than one mile from the trust company's current location, the State Bank Commissioner (Commissioner) will be permitted to exempt the trust company from certain application requirements [KSA 2015 Supp. 9-2108].

- **Certain procedures assigned to the State Banking Board.** The bill eliminates a procedure the State Banking Board must follow in the event two or more applications for new charters are filed at the same time and these applicants intend to serve the same territory (generally, the same city). Additionally, the bill eliminates a similar procedure associated with the event of a filing of a new charter application and an existing bank files an application to move to the same territory [KSA 2015 Supp. 9-801].

- **Calculation of capital.** The bill clarifies, in statutes addressing the adequacy of a bank's capital and the related calculation of appropriate limits, that intangibles, such as goodwill, will not be included in the calculation of capital. Under continuing law [KSA 2015 Supp. 9-1104], the definition of "capital" provides that intangibles, such as goodwill, shall not be included in the definition of capital when determining lending limits [KSA 2015 Supp. 9-1101; KSA 2015 Supp. 9-1102].

- **Assets of a trust company.** The bill adds "trust company" to a statute regarding unlawful transactions, to require a bank or trust company to obtain the approval

of the Commissioner prior to the sale, gifting, or purchase of an asset to or from persons and entities associated with the bank or trust company (e.g., any employee or to an employee's related interest, any director or to a director's related interest, its parent company, or a subsidiary of its parent company) [KSA 2015 Supp. 9-1112].

- **Retention of annual oaths.** The bill deletes a requirement that officers' and directors' oaths be filed with the Commissioner within 15 days of the election of the officer or director and instead requires the copy of each oath be retained by the bank or trust company in its records after such election, for review during the next examination by the Commissioner's staff [KSA 2015 Supp. 9-1114].

- **Change of control and merger transaction applications.** The bill provides clarification regarding the person or applicant associated with an application for the change of control or a merger transaction and whether provisions in the statutes refer to a change of control or the merger transaction application. The bill also lists application requirements associated with the filing of a merger transaction application.

  Further, the bill permits a trust company to merge or consolidate with any trust company (termed by the bill as a "merger transaction"). The bill further clarifies a trust company, with the prior written approval of the Commissioner, is permitted to merge or consolidate with a trust company chartered either by the Comptroller of the Currency or another state. The bill also makes technical and clarifying amendments to merger transaction provisions which, under prior law, referred only to bank applications, by inserting "or trust company" [KSA 2015 Supp. 9-1720; KSA 2015 Supp. 9-1721; KSA 2015 Supp. 9-1722; KSA 2015 Supp. 9-1724].

Savings Promotion

The bill also enacts new law to allow a bank, savings bank, savings and loan association, or a credit union to conduct a savings promotion in which a person would deposit money into a savings account or other savings program in order to obtain entries and participate in the promotion. The bill requires the promotions be conducted in a manner that ensures each entry has an equal chance of winning the designated prize.

The bill further stipulates the bank, savings bank, savings and loan association, or credit union offering the promotion must:

- Fully disclose the terms and conditions of the promotion to each of its account holders;

- Maintain records sufficient to facilitate an audit of the promotion;

- Ensure that only account holders 18 years of age and older are permitted to participate;

- Not require any consideration; and

- Offer an interest rate and charge fees on any promotion-qualifying account that are approximately the same as for a comparable account that does not qualify for the promotion.

The Commissioner and the Credit Union Administrator are authorized by the bill to promulgate rules and regulations, as necessary, to effectuate the provisions pertaining to their respective financial institutions. Such rules and regulations must be promulgated by July 1, 2017. The bill further directs the Commissioner and Credit Union Administrator to collaborate in order to promulgate rules and regulations affecting account holders that are consistent, other than the type of institution to which the regulations apply.

Fair Credit Reporting Act—Security Freezes for Protected Consumers; HB 2134

HB 2134 enacts new law supplemental to and amending provisions in the Fair Credit Reporting Act to authorize security freezes on consumer credit reports for protected consumers.

Definitions

The bill establishes definitions in the Fair Credit Reporting Act, including these:

- "Protected consumer" means an individual who is:
    - Under the age of 16 years at the time a request for placement of a security freeze is made; or
    - An individual for whom a guardian or conservator has been appointed;
- "Security freeze for a protected consumer" means one of the following:
    - If a consumer reporting agency does not have a file pertaining to a protected consumer, a restriction placed on the protected consumer's record that prohibits the consumer reporting agency from releasing the protected consumer's record; or
    - If a consumer reporting agency has a file pertaining to the protected consumer, a restriction placed on the protected consumer's consumer report that prohibits the consumer reporting agency from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report;
- "Sufficient proof of authority" means documentation that shows a representative has the authority to act on behalf of a protected consumer, including any of the following:
    - An order issued by a court;

- A lawfully executed and valid power of attorney; or

- A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer.

The bill also defines "record" and "sufficient proof of identification."

Security Freezes—Protected Consumers

The bill enacts new law, effective January 1, 2017, to require a consumer reporting agency to place a security freeze for a protected consumer if the consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze and the protected consumer's representative:

- Submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

- Provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative;

- Provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer; and

- Pays to the consumer reporting agency a fee, as specified in the bill:

  - A consumer reporting agency is permitted to charge a reasonable fee, not exceeding $10, for each placement or removal of a security freeze for a protected consumer unless the protected consumer's representative has obtained a police report or affidavit of alleged fraud against the protected consumer and provides a copy of this report or affidavit, or a request for placement or removal of a security freeze is for a protected consumer who is under the age of 18 years at the time of the request and the consumer reporting agency has a consumer report pertaining to the protected consumer.

The bill further provides if a consumer reporting agency does not have a record pertaining to a protected consumer when it receives a request for a security freeze, the consumer reporting agency will be required to create a record for the protected consumer. The consumer reporting agency will be required, within 30 days after receiving a request meeting the requirements specified in the bill, to place a security freeze for the protected consumer.

Consumer Report Records; Removal of Security Freezes

The bill prohibits, unless a security freeze for the protected consumer has been removed, a consumer reporting agency from releasing the protected consumer's consumer report, any information derived from this report, or any record created for the protected consumer.

Under the bill, a security freeze for a protected consumer will remain in effect until:

- The protected consumer or the protected consumer's representative requests the consumer reporting agency remove the security freeze in accordance with provisions of the bill; or

- The security freeze is removed in accordance with provisions of the bill.

If a protected consumer or a protected consumer's representative wishes to remove a security freeze, the protected consumer or representative must:

- Submit a request for the removal to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

- Provide to the consumer reporting agency the following sufficient proof of identification of the protected consumer:

    - For a request by the protected consumer, proof that the sufficient proof of authority for the protected consumer's representative to act on behalf of the protected consumer is no longer valid; or

    - For a request by the representative of a protected consumer, sufficient proof of identification of the representative and sufficient proof of authority to act on behalf of the protected consumer; and

- Pay a fee to the consumer reporting agency, as described in provisions in the bill relating to fees, for placement or removal of a security freeze.

Applicability of Security Freeze Provisions; Failure to Comply

The bill does not apply to:

- A person administering a credit file monitoring subscription service to which the protected consumer has subscribed or the representative of the protected consumer has subscribed on behalf of the protected consumer;

- A person providing the protected consumer or the protected consumer's representative with a copy of the protected consumer's consumer report on request of the protected consumer or the protected consumer's representative; or

- A person or entity listed in security freeze provisions in the Fair Credit Reporting Act [KSA 2015 Supp. 50-723 (i)(1) and (6) – (12) or 50-724(a)(1) – (5)]. Those persons and entities include federal, state, or local government entities, including a law enforcement agency or court; persons providing a consumer a copy of the consumer's own report at such consumer's request; a child support enforcement agency; check services or fraud prevention services companies; and employers in connection with applications for employment. This also would include any database or file which consists solely of any information adverse to the interests of the consumer (e.g., criminal record information, tenant screening, and employment screening).

The bill further permits a consumer reporting agency to remove a security freeze for a protected consumer or delete a record of a protected consumer if such security freeze was placed or the record was created based on a material misrepresentation of a fact by the protected consumer or the protected consumer's representative.

Finally, the bill provides that any person who fails to comply with any requirement imposed under the new section (made supplemental to the Fair Credit Reporting Act) with respect to any protected consumer shall be liable pursuant to the provisions of the Fair Credit Reporting Act.

Effective Date

The bill takes effect and is in force from and after January 1, 2017, and its publication in the *Kansas Register*.

HEALTH

Title X Funding for Family Planning Services; SB 248

SB 248 prescribes the priority for expenditures and grants for family planning services financed with federal Title X funds. The bill specifies the Kansas Department of Health and Environment, Division of Public Health, shall make any expenditure or grant first to public entities, including state, county, and local health departments and health clinics and, second, if funds remain, to non-public entities that are hospitals or federally qualified health centers that provide comprehensive primary and preventive care in addition to family planning services. The bill codifies in statute a proviso which has been included in the appropriations bills since 2011.

Public Assistance Eligibility; Step Therapy in Medicaid; House Sub. for SB 402

House Sub. for SB 402 makes changes pertaining to eligibility for public assistance. Additionally, the bill removes the prohibition from requiring a Medicaid recipient to use or fail with a drug usage or drug therapy prior to allowing the recipient to receive the product or therapy recommended by the recipient's physician (a practice commonly referred to as step therapy); provides for patient protections for individuals on a drug therapy commenced prior to the effective date of the bill, including a 30-day trial limit on drug usage or drug therapy used for the treatment of multiple sclerosis; provides for a 72-hour expedited appeal process on a physician request for an override; requires the Kansas Department of Health and Environment (KDHE) to study, review, and report to the Legislature on the use of step therapy in Medicaid and the savings under the program; provides for a step therapy exemption; and requires any policy or rule and regulation related to the implementation of the program be reviewed and approved by the Medicaid Drug Utilization Review (DUR) Board prior to implementation by KDHE, with the additional requirement any policy or rule and regulation regarding any medication used to treat mental illness also is reviewed and approved by the Mental Health Medication Advisory Committee.

Public Assistance Eligibility

The bill makes changes to the Temporary Assistance for Needy Families (TANF) and other related public assistance programs as follows:

- Reduces the TANF benefit limit from 36 calendar months to 24 calendar months, with the possibility of a hardship extension allowing receipt of TANF benefits until the 36-month lifetime limit is reached (the current lifetime limit is 48 months);

- Reduces from 42 months to 18 months the TANF cash assistance lifetime limit for a recipient of a TANF diversion payment;

- Removes the limit on TANF cash assistance transactions for cash withdrawals from automated teller machines (ATMs) and removes the authority of the Secretary for Children and Families to raise or rescind the withdrawal limits;

- Requires the Kansas Department for Children and Families (DCF) to monitor repeated requests for replacement of a Kansas Benefits Card and refer frequent replacements for fraud investigation;

- Changes work participation requirements and exemptions for recipients of TANF, non-TANF child care, and food assistance (Supplemental Nutrition Assistance Program [SNAP]);

- Makes TANF and Child Care Subsidy Program recipients ineligible for assistance for failure to cooperate with fraud investigations;

- Requires verification of all adults in the assistance household;

- Requires monthly reporting of persons with lottery winnings in excess of $5,000 to determine any recipient's continued eligibility for public assistance as a result of such winnings; and

- Addresses the recovery of public assistance debt owed to the State.

TANF Eligibility

TANF Diversion Assistance Lifetime Limit

Any recipient who receives a one-time TANF diversion assistance payment is limited to 18 months of TANF cash assistance in a lifetime.

TANF Lifetime Limits

A family group is not eligible for TANF if at least one adult in the family group has received TANF (including federal TANF assistance received in another state) for 24 calendar months beginning on or after October 1, 1996, unless the Secretary for Children and Families determines a hardship exists and grants a TANF benefit extension until the 36-month lifetime limit is reached. No extension beyond 36 months will be granted. The hardship provision applies to a recipient who is determined by the 24th month of assistance to have an extreme hardship other than those described in statute.

TANF Cash Withdrawals from ATMs

The $25 per transaction per day limit on TANF cash assistance transactions for cash withdrawals from ATMs is removed. The bill also removes the authority of the Secretary for Children and Families to raise or rescind the withdrawal limit.

TANF Work Participation

TANF work experience placements are limited to 6 months per 24-month lifetime limit.

Other Work Requirements and Exemptions

Non-TANF Child Care Recipient

The bill exempts from the 20-hour per week minimum work requirement all non-TANF child care recipients participating in a SNAP Employment and Training Program (previously available only to mandatory SNAP Education and Training Program participants) or participating in an Early Head Start Child Care Partnership Program and working or in school or training.

SNAP Recipients

Each SNAP household member who is not exempt from work requirements is required to register for work, participate in an employment and training program if assigned to such a program by DCF, accept a suitable employment offer, and not voluntarily quit a job of at least 30 hours per week. A recipient who fails to comply with the work requirements is ineligible for SNAP for the following time periods and until compliance with the work requirements: three months of ineligibility for a first penalty, six months for a second penalty, and one year for a third and any subsequent penalty.

Fraud Investigations

Ineligibility for TANF for Failure to Cooperate

An individual who fails to cooperate with a fraud investigation is ineligible to participate in the TANF cash assistance program and the child care subsidy program until determined by DCF to be cooperating with the fraud investigation. DCF is required to maintain sufficient fraud investigative staff to allow for fraud investigations that are timely and in full compliance with state laws and DCF rules and regulations or policies.

Kansas Benefits Card Replacement

DCF is required to monitor all recipient requests for Kansas benefits card replacement, send a notice on the fourth replacement request in a 12-month period alerting the recipient his or her account is being monitored for potential suspicious activity, and refer the investigation to DCF's fraud investigation unit if an additional request for replacement is made subsequent to the notice.

Verification of Identities

DCF is required to verify the identity of all adults in the assistance household for TANF cash assistance, SNAP, and the Child Care Subsidy Program.

Verification of Lottery Winnings for Continued Eligibility

The Kansas Department of Administration is required to provide monthly to DCF the Social Security numbers or alternate taxpayer identification numbers of all persons who claim a Kansas Lottery prize in excess of $5,000 during the reported month. DCF is required to verify whether the lottery prize winners are receiving TANF cash assistance, SNAP, or assistance under the

Child Care Subsidy Program and to take appropriate action. DCF is allowed to use the data received only to determine whether a recipient's eligibility for benefits has been affected by the lottery winnings and is prohibited from publicly disclosing the identity of any lottery prize winners, including those recipients determined to have illegally received benefits.

State Recovery of Public Assistance Debt

Except as authorized in state and federal law and DCF or KDHE rules and regulations and agency policy, the total amount of any assistance sold, transferred, or otherwise disposed of to others by a recipient or another person, or the total amount of any assistance knowingly purchased, acquired, or possessed by any person, is considered a debt due the State. Such debt is recoverable by the Secretary for Children and Families or the Secretary of Health and Environment during the life or upon the death of any recipient or person who sold, transferred, disposed, purchased, acquired, or possessed such assistance. The bill allows the debt to be recovered as a fourth-class claim from the estate of such individual or in an action brought while the recipient or person is living.

Step Therapy

The bill removes the prohibition on KDHE from requiring step therapy for a Medicaid recipient. A recipient is not required to go through step therapy prior to being allowed to receive a physician-recommended product or drug therapy:

- If such drug usage or drug therapy commenced on or before July 1, 2016; or
- For a period longer than 30 days, if the drug usage or drug therapy is used for the treatment of multiple sclerosis.

Step Therapy Exemption

If KDHE utilizes the step therapy system outlined in this legislation, or any other system or program to require a recipient to utilize or fail with a drug usage or drug therapy prior to allowing the recipient to receive any product or therapy recommended by the recipient's physician, the bill requires KDHE to provide access for prescribing physicians to a clear and convenient process to request an override of such requirement. KDHE is required to expeditiously grant such a request for an override if:

- The required drug usage or drug therapy is contraindicated for the patient or will likely cause an adverse reaction by or physical or mental harm to the patient;
- The required drug usage or therapy is expected to be ineffective based on the known relevant clinical characteristics of the patient and the known characteristics of the required drug usage or drug therapy;
- The patient has tried the required drug usage or drug therapy while under his or her current or previous health insurance or health benefit plan, and such use

was discontinued due to lack of efficacy or effectiveness, diminished effect, or an adverse event. For purposes of the step therapy exemption, use of pharmacy drug samples does not constitute use and failure of such drug usage or drug therapy; or

- The patient has previously been found to be stable on a different drug usage or drug therapy selected by the patient's physician for treatment of the medical condition under consideration.

KDHE, or any managed care organization or other entity administering the step therapy system established under the bill, is required to respond to and render a decision on a prescribing physician's request for an override as provided under this section within 72 hours of receiving a request.

Step Therapy Policy Review and Approval by Medicaid DUR Board

Any policy or rule and regulation proposed by KDHE related to any use of the step therapy system established by this bill, or any other system or program to require that a recipient has utilized or failed with a drug usage or therapy prior to allowing the recipient to receive any product or therapy recommended by the recipient's physician, shall be reviewed and approved by the Medicaid Drug Utilization Review Board, prior to implementation by KDHE. Any such KDHE-proposed policies or rules and regulations related to any medication used to treat mental illness require review and approval by the Mental Health Medication Advisory Committee and the Medicaid DUR Board, prior to implementation by KDHE.

Report Requirement

The bill requires the Secretary of Health and Environment to study and review the use of step therapy in Medicaid; prepare a report detailing the total funds saved under the program and the percentage and amount of such savings returned to the State; and submit such report to the Senate Committee on Public Health and Welfare, the Senate Committee on Ways and Means, the House Committee on Appropriations, and the House Committee on Health and Human Services on or before January 9, 2017, and on or before the first day of each subsequent legislative session.

KDADS Statutes Update; Prohibition on State Hospital Outsourcing or Privatization; CARE Program; SB 449

SB 449 continues the updating of statutes transferred to the Kansas Department for Aging and Disability Services (KDADS) under 2012 Executive Reorganization Order No. 41, in order to clarify and consolidate the existing authority of the Secretary for Aging and Disability Services (Secretary) with regard to the licensure process for residential care facilities, residential and day support facilities, private and public psychiatric hospitals, psychiatric residential treatment facilities (PRTFs), community mental health centers (CMHCs), and providers of other disability services licensed by the Secretary; provides for deemed status for licensure renewal of CMHCs; provides for background checks of service providers; and provides for an enforcement process with intermediate steps as an alternative to provider licensure revocation. The bill also prohibits the outsourcing or privatization of any operations or facilities of Larned State Hospital or Osawatomie State Hospital without specific authorization by the Legislature. Further, the bill clarifies law

regarding the Client Assessment, Referral and Evaluation (CARE) Program operated under KDADS.

KDADS statutes update. The bill provides for the development, establishment, and enforcement of standards for the care, treatment, health, safety, welfare, and comfort of individuals residing in or receiving treatment or services by a person or entity licensed under the bill. The bill also provides for the development, establishment, and enforcement of standards for the construction, maintenance, or operation of facilities, hospitals, centers, and providers of services that promote safe and adequate accommodation, care, and treatment of individuals residing in or receiving treatment in the listed settings. Further, the bill defines specific terms and grants the Secretary rule and regulation authority.

Definitions

The bill defines terms including these:

- "Center" means a CMHC;
- "Facility" means any place other than a CMHC or hospital that meets the requirements established in regulations created and adopted by the Secretary, where individuals reside and receive treatment or services provided by a person or entity licensed under the bill;
- "Hospital" means a psychiatric hospital;
- "Individual" means a person who receives behavioral health, intellectual disabilities, developmental disabilities, or other disability services as set forth in the bill;
- "Licensing agency" means the Secretary;
- "Other disabilities" means any condition for which individuals receive home and community based waiver services;
- "Provider" means a person, partnership, or corporation employing or contracting with appropriately credentialed persons that provides behavioral health (excluding substance use disorder services for the purposes of this bill), intellectual disability, developmental disability, or other disability services according to the requirements in the rules and regulations created and adopted by the Secretary; and
- "Services" means behavioral health, intellectual disability, developmental disability, and other disability services, including residential supports, day supports, care coordination, case management, workshops, sheltered domiciles, education, therapeutic services, assessments and evaluations, diagnostic care, medicinal support, and rehabilitative services.

The bill also defines CMHC, department, licensee, psychiatric hospital, PRTF, residential care facility, and Secretary.

Duties of the Secretary

The following are among the duties of the Secretary outlined in the bill:

- Enforce laws relating to the hospitalization of mentally ill individuals in a psychiatric hospital and the diagnosis, care, training, or treatment of individuals receiving services through CMHCs, PRTFs for individuals with mental illness, residential care facilities or other facilities or services for individuals with mental illness, intellectual disabilities, developmental disabilities, or other disabilities;

- Inspect, license, certify, or accredit centers, facilities, hospitals, and providers for individuals with mental illness, intellectual disabilities, developmental disabilities, or other disabilities pursuant to federal legislation, and deny, suspend, or revoke a license granted for causes shown;

- Set standards for, inspect, and license all providers and facilities for individuals with mental illness, intellectual disabilities, developmental disabilities, or other disabilities receiving assistance through KDADS which receive or have received after June 30, 1967, any state or federal funds, or facilities where individuals with mental illness, intellectual disabilities, or developmental disabilities reside, who require supervision or require limited assistance with the taking of medication. The Secretary is authorized to develop rules and regulations to allow the facilities to assist an individual with the taking of medications when the medication is in a labeled container dispensed by a pharmacist; and

- Do other acts and things necessary to execute the authority expressly granted to the Secretary.

Additionally, the bill outlines other duties prescribed to the Secretary.

Injunctive Relief

In addition to the existence or pursuit of other remedies, the Secretary, as the licensing agency, is authorized pursuant to the Kansas Judicial Review Act (KJRA) to maintain an action for an injunction against any person or facility to restrain or prevent the operation of a residential care facility, crisis residential care facility, private or public psychiatric hospital, PRTF, provider of services, CMHC, or any other facility providing services to individuals without a license.

Reports and Information

Superintendents, executives, or other administrative officers of all psychiatric hospitals, CMHCs, or facilities serving individuals with intellectual disabilities or developmental disabilities, and facilities serving other disabilities receiving assistance through KDADS are required to furnish reports and information to the Secretary.

Rule and Regulation Authority

The Secretary is authorized to adopt rules and regulations necessary to carry out the provisions of the bill. The bill provides a list of the types of minimum standards and requirements the Secretary is authorized to prescribe by rules and regulations. The bill clarifies the authority granted to the Secretary under the bill is in addition to other statutory authority the Secretary has to require the licensing and operation of centers, facilities, hospitals, and providers and is not intended to be construed to limit any of the powers and duties of the Secretary under Article 59 of Chapter 75 of the *Kansas Statutes Annotated* (the Kansas Act on Aging).

Compliance with State Law, Ordinances, and Rules and Regulations

The bill requires strict compliance with all pertinent state laws and lawfully adopted ordinances and rules and regulations in the operation of any center, facility, hospital, or provision of services in the state. All centers, facilities, hospitals, and providers are required to comply with all lawfully established requirements and rules and regulations of the Secretary, the State Fire Marshal, and any other government agency pertinent and applicable to such centers, facilities, hospitals, and providers; their buildings, staff, facilities, maintenance, operation, and conduct; and the care and treatment of individuals.

Licensure Requirement

A center, facility, hospital, or provider is prohibited from operating or providing services in the state without a license issued by the Secretary pursuant to an application for licensure and compliance with the requirements, standards, rules, and regulations.

Application for Licensure

The bill requires an application for a license to operate a center, facility, or hospital or to be a provider of services to be made in writing to the Secretary on forms made available by the Secretary and signed by the person or persons seeking the license or by a duly authorized agent. The application must contain all information required by the Secretary, as the licensing agency, which may include affirmative evidence of the applicant's ability to comply with the standards and rules and regulations adopted under the bill.

Issuance of License, Inspections, Investigations, and Fees

The bill provides for the issuance of a license by the Secretary with the approval of the State Fire Marshal, upon receipt of an initial or renewal application if the applicant is fit and qualified and if the center, facility, hospital, or provider meets the requirements under the bill and the adopted rules and regulations. The Secretary, the State Fire Marshal, and the county, city-county, or multi-county health departments or their designated representatives are required to make any necessary inspections and investigations to determine the conditions existing in each case. A written report of such inspections, investigations, and recommendations by the State Fire Marshal and the county, city-county, or multi-county health departments or their designated representatives must be filed with the Secretary and a copy of the report provided to the applicant.

The fees for the initial and renewal application are fixed by the Secretary by rules and regulations. The non-refundable licensure fees are paid to the Secretary at the time of initial application and annually thereafter. The fees in effect immediately prior to the effective date of the bill remain in effect on and after the effective date of the bill until the Secretary establishes a different fee by rules and regulations.

Licenses are issued only for the premises or providers named in the application, or both, and are not transferable or assignable. The license must be posted in a conspicuous place in the center, facility, hospital, or provider's principal location. A license is to be denied or revoked for the failure to file the annual report and pay the renewal of licensure fee. The license must state the type of facility or service for which the license is granted, the number of individuals for whom granted, the person or persons to whom granted, the date, and such additional information and special limitations deemed appropriate by the Secretary.

A license remains in effect until the date of expiration specified by the Secretary, unless suspended or revoked. Renewal applications must contain the information in such form as required by the Secretary and be accompanied by the payment of any required annual fee. A license is issued and effective until the date of expiration upon review and approval by the Secretary and the State Fire Marshal or their duly authorized agents.

CMHC Deemed Status for Licensure Renewal

The bill grants programs and treatments provided by a CMHC previously licensed 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, a license renewal based on such accreditation, referred to as "deemed status."

Additionally, the bill requires KDADS to inspect an accredited CMHC to determine compliance with state licensing standards and rules and regulations not covered by the accrediting entity's standards, or in response to a complaint made against the accredited CMHC.

Restrictions on the Operation and Provision of Service

A licensee is prohibited from knowingly operating a center, facility, or hospital or being a provider of services if any person who works in these settings or for a provider of services has been convicted of crimes specified in the bill or has had action taken against them, including:

- A felony conviction for crimes against persons;
- A felony conviction for crimes involving controlled substances;
- A conviction for any act involving crimes against persons, sex crimes, crimes affecting family relationships and children, unlawful disclosure of tax information, unlawful interference with a firefighter or an emergency medical services attendant, permitting a dangerous animal to be at large, selling or promoting the sale of sexual relations, buying sexual relations, and certain anticipatory crimes involving attempt or conspiracy to commit such acts;

- A conviction for promoting obscenity or promoting obscenity to minors;

- Adjudicated a juvenile offender because of having committed an act, which, if committed by an adult, would constitute the commission of a felony and which is a crime against persons, or is any act described above;

- Committed an act of physical, mental, or emotional abuse or neglect or sexual abuse, and who is listed in the Child Abuse and Neglect Registry maintained by the Kansas Department for Children and Families (DCF), and:

    - Failed to successfully complete a corrective action plan deemed appropriate and approved by DCF; or

    - The record has not been expunged by DCF;

- Had a child removed from the home based on a court order finding the child to be deprived or a child in need of care based on a finding of physical, mental, or emotional abuse or neglect or sexual abuse, and the child has not been returned to the home, or the child reaches majority before being returned to the home, and the person has failed to satisfactorily complete a corrective action plan;

- Had parental rights terminated; or

- Signed a diversion agreement or an immediate intervention agreement involving a charge of child abuse or a sexual offense.

The bill also prohibits a person who has been found to be an adult with an impairment in need of a guardian or conservator, or both, from operating a center, facility, or hospital or being a provider of services.

Criminal History Record Check

The Secretary is required to notify the licensee, within ten business days, when the result of a national criminal history record check or other appropriate review reveals unfitness for licensure as described above. The bill protects a licensee, its contractors, or its employees from civil liability for a refusal to employ or discharge from employment when acting in good faith to comply with disqualifying factors contained in the bill.

A licensee or member of the staff who received information regarding the fitness or unfitness of any person is required to keep such information confidential, but is allowed to disclose the information to the person who is the subject of the request. A violation of this section is an unclassified misdemeanor punishable by a fine of $100.

The Secretary is authorized to require an individual seeking licensure or applying to work in a facility to be fingerprinted and submit to a state and national criminal history record check. The Secretary is authorized 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 Secretary has access to any criminal history record information in the possession of the KBI regarding any criminal history information, including adjudications of a juvenile offender, which, if committed by an adult, would have been a felony conviction. The bill authorizes the KBI to charge KDADS a reasonable fee for providing criminal history record information. The Secretary charges each person or licensee for each person about whom an information request has been submitted.

The licensee operating a center, facility, or hospital or a provider of services is required to request from KDADS information regarding any criminal history information relating to a person who works in the center, facility, or hospital or for a service provider or who is being considered for employment or volunteer work. The licensee is required to report the dates of employment and separation of all persons working for the licensee. Any employment agency that provides employees to work in a center, facility, hospital, or a provider of services is required to request and receive an eligibility determination from KDADS. The licensee is required to obtain written documentation that such employees are eligible to work. The licensee is allowed to hire an applicant for employment on a conditional basis pending the results of an eligibility determination from KDADS. As required by the federal Patient Protection and Affordable Care Act, a person disqualified from employment due to a valid background check has the right to appeal in accordance with requirements, standards, and rules and regulations promulgated by the Secretary.

The provisions of this section do not apply to a person who works for a center, facility, or hospital; currently is licensed or registered by an agency of this state to provide professional services; and provides such services as part of the work such person performs at the center, facility, or hospital. However, a licensee may request criminal history record information from KDADS on these persons.

A licensee operating a center, facility, hospital, or a provider of services is prohibited from requiring an applicant under this section to be fingerprinted if the applicant has been the subject of a background check under the bill within one year prior to the application for employment with the licensee and has maintained a record of continuous employment, with no lapse of employment of over 90 days, in any center, facility, hospital, or a provider of services covered by the bill.

Persons in the custody of the Secretary of Corrections and who provide services under direct supervision in non-patient areas on the grounds or other areas designated by the Secretary of Corrections are not subject to the provision of this section while providing such services.

Grandfathered Licenses

Licenses issued for centers, facilities, hospitals, and providers prior to the effective date of the bill continue in force until the licensed date of expiration, unless suspended or revoked. Persons holding such licenses that are in force on the effective date of the bill are permitted not more than four months from the effective date of the bill to comply with the rules and regulations and standards promulgated under the bill where the rules and regulations differ in any substantial respect from those in force and effect immediately prior to the effective date of the bill.

Inspections and Investigations

Inspections and investigations are required, announced or unannounced, and reported in writing by the authorized agents and representatives of the Secretary and State Fire Marshal and of the county, city-county, and multi-county health departments as often and in the manner prescribed by rules and regulations promulgated under the bill. Upon presenting adequate identification to carry out the requirements of the bill, the representatives must be given access at any time to the premises of any center, facility, hospital, or provider, depending on the type of service provided by the provider and locations. Access to the premises of a facility that is a private residence is required to be given only for cause as prescribed by rules and regulations adopted under the provisions of the bill. Failure to provide the required access may constitute grounds for denial, suspension, or revocation of the license. The bill requires a copy of any inspection or investigation reports required by this section to be furnished to the applicant or licensee. The bill requires an exit interview with the licensee.

The Secretary is required to inspect any facility or provider of residential services which serves two or more residents who are not self-directing their services and is subject to licensure under the bill.

Licensees are required to post in a conspicuous place a notice indicating the most recent inspection report and related documents may be examined upon request, subject to a reasonable charge to cover copying costs. A licensee is required to provide the most recent inspection report and related documents upon request.

Provisional Licenses

The bill allows a provisional license to be issued to any center, facility, hospital, or provider which is temporarily unable to conform to all the standards, requirements, and rules and regulations established under the bill. Such a provisional license is subject to approval by the State Fire Marshal. A provisional license is for a period of six months to allow for necessary corrections, but one additional successive six-month provisional license may be granted at the Secretary's discretion. A change of ownership during the provisional licensing does not extend the time for the requirements to be met that were the basis for the provisional license, nor entitle the new owner to an additional provisional license.

Disciplinary Action

If the Secretary finds a substantial failure to comply with the requirements, standards, or rules and regulations established under the bill, an order denying, suspending, or revoking the license is authorized after notice and an opportunity for a hearing under the Kansas Administrative Procedure Act (KAPA). Any licensee or applicant has the right to appeal such an order under the KJRA.

When the Secretary denies, suspends, or revokes a license, the applicant is not eligible to apply for a new license or reinstatement of a license for two years from the date of denial, suspension, or revocation. Any applicant issued an emergency order by the Secretary denying, suspending, or revoking a license may apply for a new license or reinstatement of a license at any time upon submission of a written waiver of any right conferred on the applicant or licensee under

the KAPA and the KJRA to the Secretary in a settlement agreement or other manner approved by the Secretary. A licensee issued a notice of intent to take action by the Secretary is allowed to enter into a settlement agreement, as approved by the Secretary, with the Secretary at any time upon submission of a written waiver of any right conferred under the KAPA and the KJRA.

A CMHC accredited by the Commission on Accreditation of Rehabilitation Facilities or The Joint Commission, or another national accrediting body approved by the Secretary, is required to immediately notify KDADS if it loses accreditation by such accrediting entity.

Grounds for Denial, Suspension, or Revocation of a License

The bill defines "person" to mean:

- 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;

- The owner, in whole or in part, of any mortgage, deed of trust, note, or other obligation secured, in whole or in part, by such center, facility, or hospital; or any of the property or assets of such center, facility, or hospital; or

- If the center, facility, hospital, or provider is organized as a corporation, an officer or director of the corporation, or if the facility is organized as a partnership, a partner.

The Secretary is authorized to deny, suspend, or revoke the license of any person who meets any of the seven grounds outlined in the bill. The grounds include:

- Willful or repeated violations of any provision of law or rules and regulations adopted pursuant to the bill or the Kansas Act on Aging;

- Denial, suspension, revocation, or limitation of a license to operate a center, facility, or hospital; censure or other disciplinary action taken; or denial of an application for licensure by the proper licensing authority of another state, territory, District of Columbia, or other country, with a certified copy of the record being conclusive evidence of this action;

- Failure or refusal to comply with the Medicaid and Medicare requirements under specified sections of the Social Security Act, or Medicaid and Medicare regulations under specified sections of the Code of Federal Regulations, with a certified copy of the record being conclusive evidence of this action; or

- A felony conviction.

Penalties

A person operating a center, facility, hospital, or a provider of services in the state without a license under the bill is guilty of a class B misdemeanor. Violations of any other provision of the bill or rules and regulations promulgated under the bill also are class B misdemeanors.

Regardless of the existence or pursuit of other available remedies, the Secretary is authorized to maintain an action, under the KJRA, in the name of the state for injunction or other process against any person or agency to restrain or prevent the operation of a center, facility, hospital, or provision of services without a license under the bill.

Correction Orders

The bill allows for the issuance of a correction order by the Secretary or a designee to a licensee when the State Fire Marshal or the Marshal's representative or a duly authorized representative of the Secretary inspects or investigates a center, facility, hospital, or provider, and determines there is noncompliance with the provisions of the bill or the Kansas Act on Aging or rules and regulations and the noncompliance is likely to adversely affect the health, safety, nutrition, or sanitation of the individuals or the public. The correction order is to be served on the licensee either personally or by certified mail, return receipt requested. The correction order must be in writing, state the specific deficiency, cite the statutory provision or rule and regulation alleged to have been violated, and specify the time allowed for correction.

If re-inspection by the State Fire Marshal, the Fire Marshal's representative, or a duly authorized representative of the Secretary finds the licensee has not corrected the deficiency or deficiencies specified in the correction order, the Secretary is authorized to assess a civil penalty not to exceed $500 per day, per deficiency, against the licensee for each day after the day following the deadline for correction specified in the correction order, up to a maximum assessment of $2,500. The licensee must be served with a written notice of assessment.

In determining the amount of the civil penalty to be assessed, the Secretary first is required to consider the following:

- The severity of the violation;
- The good faith effort exercised by the center, facility, hospital, or provider to correct the violation; and
- The history of compliance of the licensee with the rules and regulations. The Secretary is authorized to double the civil penalty assessed the licensee, up to a maximum of $5,000, if some or all of the deficiencies cited in the correction order were cited in an inspection or investigation which occurred within 18 months prior to the inspection or investigation that resulted in the correction order.

Civil penalties assessed are due and payable within ten days of service of the written notice of assessment on the licensee, unless additional time is granted by the Secretary. If payment is not made within the applicable time period, the Secretary is authorized to file a certified copy of

the notice of assessment in district court to enforce the notice in the same manner as a judgment of the district court. Civil penalties collected under provisions of the bill are to be deposited in the State General Fund.

Severability Clause

If a provision of the bill or its application is held invalid, the invalidity does not affect other provisions or applications that can be given effect without the invalid provisions or application, such that the provisions of the bill are severable.

Prohibition on State Hospital Outsourcing or Privatization

The bill prohibits a state agency from entering into any agreement or taking any action to outsource or privatize any operations or facilities of Larned State Hospital or Osawatomie State Hospital without prior specific authorization by an act or an appropriation act of the Legislature.

A state agency is not prevented from renewing any agreement in existence prior to March 4, 2016, for services at Larned State Hospital or Osawatomie State Hospital if the new agreement is substantially the same as an existing agreement. Additionally, a state agency is not prevented from entering into an agreement with a different provider for services at Larned State Hospital or Osawatomie State Hospital if the agreement is substantially similar to an agreement for services in existence prior to March 4, 2016.

CARE Program

The bill clarifies law regarding the CARE program operated under KDADS to reflect the appropriate agency name and the current operation of the program. The bill clarifies references to the Kansas Department of Health and Environment and removes language requiring the Health Care Data Governing Board to adopt the CARE data entry form.

Nursing Facility Quality Care Assessment; Senate Sub. for HB 2365

Senate Sub. for HB 2365 increases the maximum annual amount of the quality care assessment and extends its sunset date, and updates and makes changes to the membership and reporting requirements of the Quality Care Improvement Panel.

The bill increases the maximum annual amount of the quality care assessment from $1,950 to $4,908 per licensed bed. The bill also extends the expiration date of the assessment by four years, from July 1, 2016, to July 1, 2020. The bill requires the implementation of the statutory three-year rolling average to determine nursing facilities' reimbursement rates, notwithstanding the provisions of the 2015 appropriations bill for FY 2017.

In addition, the bill updates reference to the Kansas Homes and Services for the Aging to the entity's new name, LeadingAge Kansas, in relation to the Quality Care Improvement Panel membership. The bill also increases the membership of the Quality Care Improvement Panel from the current 11 members to 13 members. One of the new members will be appointed by the President of the Senate and be affiliated with an organization representing the interests of

retired persons, and the other new member will be appointed by the Speaker of the House of Representatives and be a volunteer with the Office of the State Long-Term Care Ombudsman.

The bill also specifies the annual report from the Quality Care Improvement Panel be submitted to the Senate Committees on Public Health and Welfare and Ways and Means, the House Committees on Health and Human Services and Appropriations, and the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight. (Under continuing law, the report must be provided annually to the Legislature on or before January 10 and address the activities of the panel during the preceding calendar year and any recommendations which the panel may have concerning the administration of and expenditures from the Quality Care Assessment Fund.)

The bill directs the annual report also include information regarding the reduction of use of anti-psychotic medication for elders with dementia, participation in the nursing facility quality and efficiency outcome incentive factor, participation in the culture change and person-centered care incentive program, and annual resident satisfaction ratings.

[*Note:* The quality care assessment is a provider assessment, which is a mechanism used to maximize the amount of federal funding for the state by generating new state funds. After collection, the additional funds are used as the state match to draw down additional federal funds. This results in increased Medicaid payments to providers for Medicaid eligible services.]

Changes to Emergency Medical Services Law; HB 2387

HB 2387 makes changes to the authorized activities of those who have certain emergency medical services (EMS) certifications; makes changes to the composition, powers, and duties of the Emergency Medical Services Board (EMS Board); and amends certain definitions. Specific changes made by the bill are described below.

Changes to the EMS Board

The following changes are made regarding the EMS Board:

- Outdated language is removed relating to the initial term designation of additional physicians as EMS Board members;
- References to “administrator” are replaced with “executive director” throughout the bill;
- The number of EMS Board members required to call a special EMS Board meeting is changed from six to seven;
- The bill clarifies the authority of the EMS Board to deny instructor-coordinator, attendant, and training officer certification in accordance with the provisions of the Kansas Administrative Procedure Act; and

- Membership criteria for the EMS Board-appointed Medical Advisory Council is changed to require all members to be physicians by:

    - Eliminating the EMS Board member position that is not required to be a physician; and

    - Adding a fifth physician who is active and knowledgeable in the EMS field and is not an EMS Board member.

Definition Changes

The following changes are made to definitions within the bill:

- "Mobile intensive care technician" (MICT) is deleted from the definition section and from the "attendant" definition where it is referenced;

- "Physician assistant" is amended to reference the definition found within the Physician Assistant Licensure Act;

- "Provider of training" is replaced with "sponsoring organization" throughout the bill, which is defined as any professional association, accredited postsecondary educational institution, ambulance service which holds a permit to operate in this state, fire department, other officially organized public safety agency, hospital, corporation, governmental entity, or emergency medical services regional council, as approved by the executive director, to offer initial courses of instruction or continuing education programs; and

- "Instructor-coordinator" and "training officer" are amended to clarify the specific roles within the bill.

Authorized Activities

Under continuing law, each classification of EMS attendant is authorized to perform the interventions of the lower levels of certified attendants. The bill changes authorized activities by Emergency Medical Technicians-Intermediate (EMT-I) transitioning to Advanced Emergency Medical Technicians (AEMT) and updates and changes authorized activities by Emergency Medical Technicians (EMT) and Emergency Medical Responders (EMR), as described below.

EMT-I Transition to AEMT

The bill changes interventions that may be performed by an EMT-I who transitions to an AEMT as follows:

- Removes the use of continuous positive airway pressure devices and moves the intervention to the list of EMT authorized activities as "non-invasive positive air pressure ventilation";

- Removes cardioversion capability;

- Adds the monitoring of a nasogastric tube; and

- Removes references to types of medications and methods of administering medications and replaces those references with language allowing for specification by rules and regulations of the EMS Board.

EMT

The bill removes a line item list for activities and outdated language related to basic level EMTs (which have been transitioned to current EMTs) and changes interventions that may be performed by an EMT as follows:

- Adds the use of non-invasive positive pressure ventilation to maintain the airway and the application of a traction splint; and

- Removes assistance with childbirth (moved to EMR activities), cardiac monitoring, and application of pneumatic anti-shock garment.

EMR

The bill removes a line item list for activities and outdated language related to First Responders (which have been transitioned to current EMRs) and changes interventions that may be performed by an EMR as follows:

- Specifies the use of cardiopulmonary resuscitation is for cardiac arrest management;

- Adds the utilization of equipment for the purposes of acquiring an EKG rhythm strip;

- Adds assisting with childbirth (moved from EMT activities);

- Adds non-invasive monitoring of hemoglobin derivatives;

- Removes insertion and maintenance of oral and nasal pharyngeal airways; and

- Removes administration of oral glucose and aspirin and replaces that with administration of medications as approved by the EMS Board by appropriate routes.

Other Changes

The bill removes the specific listing of those who may apply for a training officer's certificate [EMT, EMT-I, EMT-Defibrillator, MICT, AEMT, and paramedic] and replaces the list with a reference to an attendant certified under the statutes applicable to the listed categories.

The bill removes EMT, EMT-I, EMT-Defibrillator, MICT, EMT-I/Defibrillator, AEMT, and paramedic from the list of those individuals at least one of which must be on each vehicle providing emergency medical services and replaces the list with a reference to an attendant certified under statutes applicable to those listed categories.

Kansas Tanning Facilities Act; Board of Barbering; HB 2456

HB 2456 creates and amends law regarding tanning facilities and barber schools and colleges.

Kansas Tanning Facilities Act

The bill creates the Kansas Tanning Facilities Act and prohibits a tanning facility from providing access to a tanning device to any individual under 18 years of age. In addition to or in place of disciplinary action currently allowed under statute, the Board of Cosmetology has authority to impose fines up to $250 against a tanning facility licensee for each violation. The Board of Cosmetology is required to adopt rules and regulations under the Act, no later than January 1, 2017.

Board of Barbering

The bill amends the requirements for a barber school or college to be approved by the Kansas Board of Barbering (Board); the qualifications for a person to receive a license to practice barbering; the license renewal process for a barber, instructor, or operator of a barber shop whose license has expired; the disciplinary procedures the Board is allowed to follow; and the Board's duties to include increased authority.

The bill amends the requirements for a barber school or college to be approved by the Board by changing the required hours for graduation to a minimum of 1,200 hours and a maximum of 1,500 hours and eliminates the period of time an instructor must be a licensed practicing barber.

Under the bill, barber schools or colleges can design courses of study for barbers who have not renewed their licenses for a period of at least three years, for students who have failed at least two examinations conducted by the Board, or for other purposes as prescribed by the Board, including courses of study for professionals in related industries.

The bill allows a person to receive a license to practice barbering if such person has been certified in a related industry, such as barbering in any branch of the U.S. military service, and has completed a course of study in a licensed Kansas barber college or school or has been a cosmetologist licensed by the Kansas Board of Cosmetology and has completed a course of study in a licensed Kansas barber college or school.

A barber, instructor, or operator of a barber shop whose license has been expired for a period of less than three years is required to file a renewal application with the Board for license renewal. A barber, instructor, or operator of a barber shop whose license has been expired for a period of three years or more is required to file an application for reexamination with the Board for license renewal. The Board is allowed to issue the new license upon receipt of the application, payment of fees, and passage of reexamination, if applicable.

The Board may censure, limit, condition, suspend, or revoke or refuse to issue, reinstate, or renew a license of any applicant or licensee upon proof the applicant or licensee violated the provisions set forth in the statute that make a licensee or applicant subject to discipline or disqualify the licensee or applicant from practicing barbering. The bill adds to the list of such provisions having been convicted of any felony offense or misdemeanor offense of a crime against persons or involving illegal drugs as determined by the Board in rules and regulations, and the licensee or applicant for a license is unable to demonstrate to the Board's satisfaction that such person has been sufficiently rehabilitated to warrant the public trust. The Board also has the authority to issue a civil fine of up to a $1,000 against a licensee for a violation of such provisions.

The Board has the authority to revoke the license of any licensee who voluntarily surrenders such person's or entity's license pending investigation of misconduct or while charges of misconduct against the licensee are pending or anticipated.

All disciplinary proceedings will be conducted in accordance with the Kansas Administrative Procedure Act. Additionally, all judicial review and civil enforcement of agency actions will be in accordance with the Kansas Judicial Review Act.

The Board is granted additional authority to issue a cease and desist order against any individual, operator, or licensee if the Board determined that such individual, operator, or licensee has practiced without a valid license or engaged or attempted to engage in any act or practice in violation of the statutes or rules and regulations pertaining to barbering.

Further, the Board is granted additional authority to make an application to any court of competent jurisdiction for an order enjoining any person who has engaged or attempted to engage in any act or practice in violation of the statutes or rules and regulations pertaining to barbering. Upon a showing by the Board that such person has engaged or attempted to engage in any such act or practice, the Court is required to issue, without bond, an injunction, restraining order, or such other order as may be appropriate.

Death Certificates—Electronic Filing; HB 2518

HB 2518 amends a registration provision in the Uniform Vital Statistics Act to require any death certificate, stillbirth certificate, or medical certification filed on or after January 1, 2017, be filed electronically through the Kansas electronic death registration system.

Charitable Healthcare Providers; Acupuncture Practice Act; Physical Therapy Practice Act; Behavioral Sciences Regulatory Board; Interstate Medical Licensure Compact; Independent Practice of Midwifery Act; HB 2615

HB 2615 amends and creates law regarding charitable healthcare providers, the Acupuncture Practice Act and the Physical Therapy Practice Act, the Behavioral Sciences Regulatory Board, the Interstate Medical Licensure Compact, and the Independent Practice of Midwifery Act. The bill takes effect upon publication in the statute book, unless otherwise noted.

Charitable Healthcare Providers

The bill allows charitable healthcare providers and dentists to fulfill one hour of continuing education credit for performance of two hours of gratuitous service to medically indigent persons if the provider signs an agreement with the Secretary of Health and Environment (Secretary) to provide gratuitous services. Healthcare providers are allowed to fulfill a maximum of 20 continuing educational credits through gratuitous service per licensure period, and dentists are allowed to fulfill a maximum of 6 continuing educational credits through gratuitous service per licensure period.

The bill requires the Kansas State Board of Healing Arts (Board of Healing Arts) to provide an annual measurement report, starting January 15, 2017, to the Senate Committee on Public Health and Welfare and the House Committee on Health and Human Services. The report will detail, by profession, the number of gratuitous continuing education units used compared to the number of continuous education units required.

Additionally, the bill requires the Secretary to report, annually starting January 15, 2017, to the Senate Committee on Public Health and Welfare and the House Committee on Health and Human Services, what types of charitable health care providers have signed agreements under the bill and how many are using it to provide gratuitous care.

Further, the bill exempts charitable healthcare providers who sign an agreement with the Secretary to provide gratuitous service from liability under the Kansas Tort Claims Act, notwithstanding statutory provisions requiring professional liability insurance to be maintained by healthcare providers as a condition of active licensure to render services in the state.

The bill also exempts community mental health centers and employees of those centers from liability under the Kansas Tort Claims Act. It defines the term “community mental health center” as any community mental health center organized pursuant to KSA 19-4001 through KSA 19-4015 or a mental health clinic organized pursuant to KSA 65-211 through KSA 65-215 and licensed in accordance with KSA 75-3307b.

The Acupuncture Practice Act and the Physical Therapy Practice Act

The bill creates the Acupuncture Practice Act, provides for the licensure of individuals by the Board of Healing Arts, and exempts licensed physical therapists from the Acupuncture Practice Act when performing dry needling, trigger point therapy, or services specifically authorized under the Physical Therapy Practice Act. The bill also amends the Physical Therapy Practice Act to include the practice of dry needling within the scope of practice for licensed physical therapists,

defines dry needling, and exempts licensed acupuncturists from the Physical Therapy Practice Act. Additionally, the Board of Healing Arts is required to adopt rules and regulations applicable to dry needling.

With regard to the Acupuncture Practice Act, the bill defines key terms; outlines the treatments included and excluded in the practice of acupuncture; establishes penalties for violation of the Acupuncture Practice Act; establishes requirements for the licensure of acupuncturists and the licensure application, renewal, and reinstatement procedures for reciprocal, active, exempt, and inactive licenses, and for the grandfathering of individuals currently practicing acupuncture; establishes licensure fees; provides for the discipline of the licensees, including non-disciplinary resolutions; exempts certain individuals from licensure; and provides for the deposit of fees, charges, and penalties in the State Treasury, with a portion of the funds deposited in the State General Fund.

The bill also establishes an Acupuncture Advisory Council (Council) and sets out the Council's duties, membership requirements, meeting days, and compensation, and it defines the duties and authority of the Board of Healing Arts.

Additionally, with regard to the Acupuncture Practice Act, the bill provides for the assessment of civil fines; ensures protection from civil damages for good faith reporting; authorizes injunctions; addresses the confidentiality of patient and complaint information; and amends law to clarify the practice of healing arts does not include acupuncturists. Finally, the bill includes a severability clause.

The Acupuncture Practice Act and the Physical Therapy Practice Act take effect on publication in the statute book, but the effective date of certain provisions of the Acupuncture Practice Act are delayed, as outlined in the bill details that follow.

Acupuncture Practice Act

Definitions

The following are among the terms defined in the Acupuncture Practice Act:

- "ACAOM" means the national accrediting agency recognized by the U.S. Department of Education that provides accreditation for educational programs for acupuncture and oriental medicine [the Accreditation Commission for Acupuncture and Oriental Medicine]. For purposes of the Acupuncture Practice Act, the term ACAOM also includes any entity deemed by the Board of Healing Arts to be the equivalent of ACAOM;

- "Acupuncture" means the use of needles inserted into the human body by piercing of the skin and related modalities for the assessment, evaluation, prevention, treatment, or correction of any abnormal physiology or pain by means of controlling and regulating the flow and balance of energy in the body and stimulating the body to restore itself to its proper functioning and state of health;

- "National Certification Commission for Acupuncture and Oriental Medicine" (NCCAOM) is a national organization that validates entry-level competency in the practice of acupuncture and oriental medicine through the administration of professional certification examinations. For purposes of the Acupuncture Practice Act, NCCAOM also includes any entity deemed by the Board of Healing Arts to be the equivalent of the NCCAOM; and

- "Physician" is defined as a person licensed to practice medicine and surgery or osteopathy in the state.

Practice of Acupuncture

The practice of acupuncture includes, but is not limited to:

- Techniques sometimes called "dry needling," "trigger point therapy," "intramuscular therapy," "auricular detox treatment," and similar terms;

- Mechanical, thermal, pressure, suction, friction, electrical, magnetic, light, sound, vibration, manual treatment, and electromagnetic treatment;

- The use, application, or recommendation of therapeutic exercises, breathing techniques, meditation, and dietary and nutritional counselings; and

- The use and recommendation of herbal products and nutritional supplements, according to the acupuncturist's level of training and certification by the NCCAOM, or its equivalent.

The practice of acupuncture does not include:

- Prescribing, dispensing, or administering of any controlled substances as defined in KSA 2015 Supp. 65-4101 *et seq*. or any prescription-only drugs; or

- The practice of:

    - Medicine and surgery including obstetrics and the use of lasers or ionizing radiation;

    - Osteopathic medicine and surgery or osteopathic manipulative treatment;

    - Chiropractic;

    - Dentistry; or

    - Podiatry.

License Required for Practice of Acupuncture

Beginning July 1, 2017, the practice of acupuncture will be prohibited unless the individual possesses a current and valid acupuncture license issued under the Acupuncture Practice Act. Only a person licensed as an acupuncturist under the Acupuncture Practice Act will be entitled to use the terms "licensed acupuncturist" or the designated letters "L.Ac." A violation of this section will be a class B misdemeanor.

Use of Needles

Needles used in acupuncture are required to be prepackaged, single-use, sterile, and used only on an individual patient in a single treatment session.

Individuals Exempt from Acupuncture Licensure

Effective July 1, 2017, the bill will exempt the following health professionals from acupuncture licensure:

- Any person licensed to practice medicine and surgery, osteopathy, dentistry, or podiatry; a licensed chiropractor; or a licensed naturopathic doctor when acting or practicing within each licensed professional's scope of practice and not representing oneself as being licensed under the Acupuncture Practice Act;

- Any herbalist or herbal retailer if not holding oneself out as a licensed acupuncturist;

- Any health care provider in the U.S. armed forces, federal facilities, and other military service when acting in the line of duty in the state;

- Any student, trainee, or visiting teacher of acupuncture, oriental medicine, or herbology while participating in a course of study or training under the supervision of an acupuncturist licensed under the Acupuncture Practice Act in a Council-approved program, including continuing education programs and any acupuncture or herbology programs recognized by the NCCAOM or its equivalent as a route to certification;

- Any person rendering assistance in an emergency or disaster relief;

- Any person practicing self-care or any family member providing gratuitous care not holding oneself out to the public as an acupuncturist;

- Any person who massages, if such person does not practice acupuncture or hold oneself out as a licensed acupuncturist;

- Any person whose professional services are performed pursuant to delegation by and under the supervision of a practitioner licensed under the Acupuncture Practice Act;

- Any team acupuncturist or herbology practitioner traveling with and treating individuals associated with an out-of-state or national team that is temporarily in the state for training or competition purposes; and

- Any person licensed as a physical therapist when performing dry needling, trigger point therapy, or services specifically authorized under the Physical Therapy Practice Act.

Licensure Requirements

Applications for Licensure

Any applicant for licensure as an acupuncturist is required to file an application, on forms provided by the Board of Healing Arts, and show to the satisfaction of the Board of Healing Arts the applicant:

- Is at least 21 years of age;

- Has successfully completed secondary schooling or its equivalent;

- Has satisfactorily completed a course of study involving acupuncture from an accredited school of acupuncture which the Board of Healing Arts has determined to have educational standards substantially equivalent to the minimum educational standards for acupuncture colleges as established by the ACAOM or NCCAOM;

- Has satisfactorily passed a license examination approved by the Board of Healing Arts;

- Has the reasonable ability to communicate in English; and

- Has paid all fees required for licensure pursuant to the fees section of the bill.

Applications for Reciprocal License

The bill allows reciprocal licensure for individuals in the active practice of acupuncture in another state, territory, District of Columbia, or other country upon certification from the proper licensing authority that the applicant is duly licensed; has never had his or her license limited, suspended, or revoked; has never been censured or received other disciplinary actions; and, as far as the records of such authority are concerned, the applicant is entitled to such licensing authority's endorsement.

Additionally, the applicant is required to present the following proof satisfactory to the Board of Healing Arts:

- The other jurisdiction in which the applicant last practiced has and maintains standards at least equal to those maintained in Kansas;

- The applicant's original license was based on an examination at least equal in quality to the examination required in this state and the passing grade required to obtain such original license was comparable to that required in this state;

- The date of the applicant's original license and all endorsed licenses and the date and place from which any license was attained;

- The applicant has been actively engaged in practice under such license or licenses since issued (the Board of Healing Arts may adopt rules and regulations establishing qualitative and quantitative practice activities which qualify as active practice);

- The applicant has a reasonable ability to communicate in English; and

- The applicant has paid all application fees prescribed by the fees section of the bill.

Applicants for license by endorsement are required to have qualifications substantially equivalent to the Kansas requirements for licensure under the Acupuncture Practice Act.

Grandfathered License

The Board of Healing Arts is required to waive the education and examination requirements for an applicant for an acupuncture license who submits an application on or before January 1, 2018, and who, on or before July 1, 2017:

- Is 21 years of age or older;

- Has successfully completed secondary schooling or its equivalent;

- Has met both of these requirements:

    - Has completed a minimum of 1,350 hours of study (excluding online study) in acupuncture; and

    - Has been engaged in the practice of acupuncture with a minimum of 1,500 patient visits during at least 3 of the 5 years immediately preceding July 1, 2017, which requires documentation in the form of 2 affidavits from office partners, clinic supervisors, or other individuals approved by the Board of Healing Arts, who have personal knowledge of the years of practice and number of patients visiting the applicant for acupuncture. The Board is authorized to adopt rules and regulations for further verification of the applicant's practice of acupuncture; or

- Has satisfactorily passed an examination approved by the Board of Healing Arts;

- Has the reasonable ability to communicate in English; and

- Has paid all fees required for licensure as prescribed by the fees section of the bill.

Annual License Process

The licensure process for an acupuncturist established by the bill will take effect on July 1, 2017. Licenses will be issued annually and will be canceled on March 31 of each year unless renewed in the manner prescribed by the Board of Healing Arts. The Board will be authorized to prorate the amount of the fee established under the fees section of the bill when a license is renewed for less than 12 months. License renewal will be requested on a form provided by the Board of Healing Arts and accompanied by the established renewal fee to be paid by the renewal date of the license.

Active License

The bill creates a designation of an active license. The Board of Healing Arts will be authorized to issue an active license upon written application on a form provided by the Board and payment of fees established pursuant to the fees section of the bill. Every active licensee will be required to submit evidence of satisfactory completion of continuing education required by the Board of Healing Arts, with such continuing education requirements required to be established by rules and regulations adopted by the Board.

Prior to license renewal, active licensees will be required to submit to the Board of Healing Arts evidence of maintenance of professional liability insurance. The Board is required to fix by rules and regulations the minimum level of professional liability insurance coverage.

Renewal Notice

At least 30 days before the renewal date of a licensee's license, the Board of Healing Arts will be required to notify the licensee of the renewal date by mail to the licensee's last known mailing address. A licensee who fails to submit the renewal application and pay the renewal fee by the renewal date will be required to be given notice that:

- The licensee has failed to submit the application and pay the renewal fee by the renewal date;

- The license will be deemed canceled if not renewed within 30 days following the renewal date;

- The license will not be canceled if, within the 30-day period, the renewal application, the renewal fee, and an additional late fee established by rules and regulations not to exceed $500 is received; and

- The license will be deemed canceled by operation of law and without further proceedings if both fees are not received within the 30-day period.

Reinstatement of License

The bill allows for the reinstatement of any acupuncturist license within two years of cancellation for failure to renew upon recommendation of the Board of Healing Arts, payment of renewal fees, and proof of compliance of continuing education requirements established by the Board of Healing Arts by rules and regulations. The Board will be authorized to require a person who has not been in the active practice of acupuncture and seeks reinstatement or has not been engaged in a formal educational program during the two years preceding the application for reinstatement to complete additional testing, training, or education as deemed necessary by the Board of Healing Arts to establish the licensee's present ability to practice with reasonable skill and safety.

Exempt License

The bill creates a designation of an exempt license. The Board of Healing Arts will be authorized to issue an exempt license to any licensee who makes written application on a form provided by the Board and pays the fee established by the fees section of the bill. The Board of Healing Arts will be authorized to issue an exempt license to a person who is not regularly engaged in the practice of acupuncture in the state and who does not hold oneself out as being professionally engaged in such practice. An exempt licensee will be entitled to all privileges attendant to the practice of acupuncture for which the license is issued. An exempt license may be renewed and will be subject to all provisions of the Acupuncture Practice Act, except as otherwise provided.

The Board of Healing Arts will be authorized to require the holder of an exempt license to provide evidence of satisfactory completion of continuing education requirements, which shall be established by rules and regulations of the Board.

An exempt licensee will be allowed to apply for an active license to regularly engage in the active practice of acupuncture upon filing a written application with the Board of Healing Arts on a form provided by the Board of Healing Arts and submission of the license fee established in the fees section of the bill. The Board is required to adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees whose licenses have been exempt for less than two years to become licensed to regularly practice acupuncture in the state. For a licensee whose license has been exempt for more than two years and who has not been in the active practice of acupuncture since the license has been exempt, the Board of Healing Arts will be authorized to require completion of such additional testing, training, or education as the Board deems necessary to establish the licensee's present ability to practice with reasonable skill and safety. A person holding an exempt license will not be prohibited from serving as a paid employee of a local health department or an indigent health care clinic.

Inactive License

Effective on and after July 1, 2017, the bill will create the designation of an inactive license, which may be issued by the Board of Healing Arts upon written application and payment of the requisite fee. The bill will allow the Board to issue an inactive license only to persons who are not regularly engaged in the practice of acupuncture in the state and do not hold themselves out to the public as being professionally engaged in such practice. The holder of an inactive license will not be entitled to practice acupuncture in the state. Provisions will be made for the renewal of

an inactive license, and an inactive licensee will be subject to all provisions of the Acupuncture Practice Act, unless otherwise noted. A holder of an inactive license will not be required to submit evidence of completion of the continuing education requirements.

An inactive licensee will be allowed to apply for an active license upon filing a written application with the Board of Healing Arts on a form provided by the Board of Healing Arts and submitting the license fee established in the fees section of the bill. The Board is required to adopt rules and regulations establishing appropriate continuing education requirements for inactive licensees whose licenses have been exempt for less than two years to become licensed to regularly practice acupuncture in the state. For a licensee whose license has been exempt for more than two years and has not been in the active practice of acupuncture or engaged in a formal education program since the license has been inactive, the Board of Healing Arts will be authorized to require completion of such additional testing, training, or education as the Board deems necessary to establish the licensee's present ability to practice with reasonable skill and safety.

Reinstatement of Revoked License

The bill will allow a person whose acupuncture license has been revoked to apply for reinstatement after the expiration of three years from the effective date of the revocation. An application for reinstatement will have to be made on a form provided by the Board of Healing Arts and accompanied by the fee set out in the fees section of the bill. The applicant will have to prove by clear and convincing evidence sufficient rehabilitation to justify reinstatement. If the Board does not reinstate a license, the applicant will be ineligible to reapply for reinstatement for three years from the effective date of denial. Proceedings for an application for reinstatement will be conducted according to the Kansas Administrative Procedure Act (KAPA) and reviewable under the Kansas Judicial Review Act (KJRA). The Board of Healing Arts, on its own motion, will be authorized to stay the effectiveness of a revocation order.

Fees

The Board of Healing Arts will be required to charge and collect in advance nonrefundable fees for acupuncturists as established by the Board through rules and regulations in amounts not to exceed the fees specified in the bill.

Deposit of Fees, Charges, and Penalties

Moneys received by the Board of Healing Arts for fees, charges, and penalties will be deposited in the State Treasury, with 10.0 percent of the amount credited to the State General Fund and the balance credited to the Healing Arts Fee Fund.

Acupuncture Advisory Council

An Acupuncture Advisory Council is established to assist the Board of Healing Arts in carrying out the provisions of the Acupuncture Practice Act. The Council consists of five members appointed, as follows:

- The Board of Healing Arts appoints one member who is a physician licensed to practice medicine and surgery or osteopathy, and the member serves at the pleasure of the Board of Healing Arts;

- The Governor appoints three acupuncturists who have at least three years of experience in acupuncture preceding the appointment and are actively engaged in the state in the practice or teaching of acupuncture (at least two of these appointments will be made from a list of four nominees submitted by the Kansas Association of Oriental Medicine). The appointments are for a term of four years and until a successor has been appointed; and

- One member, appointed by the Governor from the public who is not engaged, directly or indirectly, in the provision of health services.

The bill requires, insofar as possible, that the members appointed to the Council by the Governor be from different geographic areas.

The bill addresses the filling of vacancies and quorum. The Council is required to meet at least once each year at a time of its choosing at the Board of Healing Arts' main office and at such other times as may be necessary on the call of the chairperson or on the request of a majority of the Council's members. A majority of the Council constitutes a quorum.

The Board of Healing Arts' members receive compensation for attending the meetings of the Council, or a subcommittee of the Council, as provided in KSA 75-3223(e), from the Healing Arts Fee Fund.

Duties of the Council

The Council is tasked with advising the Board of Healing Arts regarding examination, licensing and other fees; rules and regulations to be adopted to carry out provisions of the Acupuncture Practice Act; the annual continuing education requirements to maintain an active license; changes and new requirements taking place in the area of acupuncture; and such other duties and responsibilities as the Board of Healing Arts may assign.

Duties of the Board of Healing Arts

The Board of Healing Arts shall promulgate rules and regulations necessary to administer the provisions of the Acupuncture Practice Act.

Grounds for Disciplinary Action

Provisions dealing with grounds for disciplinary action and administrative review take effect on July 1, 2017. The bill establishes 13 grounds for which a licensee's license may be revoked, suspended, limited, or placed on probation, or the licensee publicly censured, or an application for a license or for reinstatement denied. The grounds for disciplinary action outlined in the bill include unprofessional conduct; obtaining a license by means of fraud or misrepresentation in applying for or securing an original, renewal or reinstated license; professional incompetency;

felony conviction; violation of any provisions of the Acupuncture Practice Act; violation of a lawful order or rule and regulation of the Board of Healing Arts; failure to report to the Board of Healing Arts information regarding adverse action taken against the licensee; and the inability to practice due to impairment by reason of physical or mental illness, or condition, or use of alcohol, drugs, or controlled substances. The Board will be authorized to take action in accordance with KSA 2015 Supp. 65-2842 when a reasonable suspicion of impairment exists. Information relating to impairment is be confidential and not subject to discovery by or release to any person or entity outside a Board of Healing Arts proceeding. The bill requires the provision regarding confidentiality expire on July 1, 2022, unless the Kansas Legislature reviews and reenacts the provision prior to its expiration date.

The Board of Healing Arts will be authorized to order the denial, refusal to renew, suspension, limitation, probation or revocation of a license, or other sanction, on a finding of a violation of the Acupuncture Practice Act. Administrative proceedings will be conducted in accordance with KAPA and reviewable under KJRA.

Board of Healing Arts Jurisdiction in Disciplinary Actions

The bill grants the Board of Healing Arts jurisdiction in proceedings for disciplinary action against any licensee practicing under the Acupuncture Practice Act, and such action will be required to comply with KAPA. Before or after formal charges have been filed, the bill will authorize the Board and licensee to enter into a stipulation that is to be binding on both parties. An enforcement order based on a stipulation will allow for the ordering of any disciplinary action. Additionally, the Board of Healing Arts will be authorized to temporarily suspend or temporarily limit the license of any licensee in accordance with the emergency adjudicative proceedings provisions under KAPA if the Board determines grounds exist for disciplinary action and the licensee's continuation of practice constitutes imminent danger to public health and safety. Judicial review and civil enforcement of any agency actions under the Acupuncture Practice Act will be in accordance with KJRA.

Non-Disciplinary Resolution

The Board of Healing Arts or a committee of the Board is authorized to implement non-disciplinary resolutions concerning a licensed acupuncturist consistent with KSA 2015 Supp. 65-2838a.

Assessment of a Civil Fine

The Board of Healing Arts, in addition to any other penalty prescribed by the Acupuncture Practice Act, will be authorized to assess a civil fine against a licensee for violation of such Act, after proper notice and an opportunity for the licensee to be heard. The civil fine shall not exceed $2,000 for the first violation, $5,000 for the second violation, and $10,000 for the third and for each subsequent violation. All civil fines collected will be deposited in the State Treasury to the credit of the State General Fund. Fines collected under this section will be considered administrative fines pursuant to federal law (11 USC § 523).

Confidentiality of Complaint Information

Any complaint or report, record, or other information relating to a complaint in the possession of the Board of Healing Arts is deemed confidential, and disclosure by the Board in a manner which identifies or enables identification of the person who is the subject or source of the information is prohibited, except the disclosure is permitted as specifically outlined in the bill. Re-disclosure by an agency authorized to receive the information disclosed by the Board of Healing Arts is prohibited unless otherwise authorized by law. These provisions regarding confidentiality expire on July 1, 2022, unless the Kansas Legislature reviews or reenacts the provisions before their expiration.

Protection from Civil Damages for Good Faith Reporting

No person reporting in good faith to the Board of Healing Arts concerning alleged incidents of malpractice or the qualifications, fitness, or character of or disciplinary action taken against a person licensed, registered, or certified by the Board will be subject to a civil action for damages as a result of reporting the information. Likewise, any state, regional, or local association composed of persons licensed to practice acupuncture and the individual members of any associated committees, which in good faith investigates or communicates the same type of information regarding a licensee, will be immune from liability in a civil action based on the information disclosed in good faith.

Patient Confidentiality

Effective July 1, 2017, confidential relations and communications between a licensed acupuncturist and a patient will be on the same basis as that provided by law between a physician and a patient.

Injunctions

On and after July 1, 2017, the Board of Healing Arts will be authorized to seek an injunction against any person violating the provisions of the Acupuncture Practice Act, without regard to whether proceedings have been or may be instituted before the Board or criminal proceedings have been or will be instituted.

Severability Clause

If any provision of the Acupuncture Practice Act or its application to any person or circumstance is held invalid, such invalidity shall not affect the remainder of the provisions or applications of such Act which could be given effect without the invalid provision or application. Accordingly, the provisions of the Acupuncture Practice Act shall be considered severable.

Exclusion from the Practice of Healing Arts

The bill adds acupuncturists licensed and practicing in accordance with the Acupuncture Practice Act, amendments to such Act, rules and regulations adopted, and their interpretations by the Kansas Supreme Court to the list of persons not included in the practice of healing arts.

Physical Therapy Practice Act Amendments

The Board of Healing Arts shall be required to adopt rules and regulations establishing minimum education and training requirements for the practice of dry needling by a licensed physical therapist. The bill also replaces references to "Article 29 of Chapter 65 of the *Kansas Statutes Annotated*, and amendments thereto" with "the Physical Therapy Practice Act."

Dry needling is added to the definition of "physical therapy." The bill defines "dry needling" to mean "a skilled intervention using a thin filiform needle to penetrate into or through the skin and stimulate underlying myofascial trigger points or muscular or connective tissues for the management of neuromuscular pain or movement impairments."

Additionally, the bill exempts from the Physical Therapy Practice Act licensed acupuncturists practicing their profession, when licensed and practicing in accordance with the Acupuncture Practice Act. The licensed acupuncturist exemption will take effect and be in force on and after July 1, 2016.

Behavioral Sciences Regulatory Board

The bill standardizes regulatory statutes administered by the Behavioral Sciences Regulatory Board (BSRB) that apply to psychologists, professional counselors, social workers, addiction counselors, and marriage and family therapists. The standardized provisions pertain to licensure by reciprocity, the reasons for disciplinary action against a licensee, and the licensure fees charged by the BSRB. The bill allows the BRSB to require fingerprinting and background checks on licensees; place licensed psychologists and social workers under the KAPA; establish supervisory training standards for professional counselors and marriage and family therapists; and create a new category of licensure for Masters Level Addiction Counselors. Additionally, the bill requires a two-thirds majority vote of the BSRB to issue or reinstate the license of an applicant with a felony conviction. The bill updates several statutes by deleting the terms "state certified alcohol and drug abuse counselor" and "counselor" from applicable statutes and inserting "licensed addiction counselor," "licensed master's addiction counselor," and "licensed clinical addiction counselor" into applicable statutes. Additionally, the bill grandfathers credentialed or registered alcohol and other drug counselors who comply with specific requirements prior to July 1, 2017. Specific bill details follow.

Fingerprinting and Background Checks

The bill allows the BSRB to require a person be fingerprinted and submit to a national criminal history record check as part of an original application for or reinstatement of any license, registration, permit, or certificate or in connection with any investigation of any holder of a license, registration, permit, or certificate. The BSRB is authorized to submit the fingerprints to the Kansas Bureau of Investigation and the Federal Bureau of Investigation for a state and national criminal history record check. The BSRB is allowed to use the information obtained from fingerprinting and the criminal history to verify the identification of the person and to officially determine the qualifications and fitness of the person to be issued or to maintain a license, registration, permit, or certificate.

Local and state law enforcement officers and agencies are required to assist the BSRB in taking and processing the applicant fingerprints and are required to release all records of adult convictions and non-convictions and adult convictions or adjudications of another state or country to the BSRB. The BSRB is authorized to fix and collect a fee in an amount equal to the cost of fingerprinting and the criminal history record check. The funds collected are credited to the BSRB Fee Fund.

Change of Address Notice

A licensee is required to notify the BSRB within 30 days after any change of permanent address.

Licensure by Reciprocity

The bill amends the requirements for licensure by reciprocity to require the applicant to demonstrate registration, certification, or licensure to practice from another jurisdiction for at least 60 of the last 66 months immediately preceding the application.

Fees

The bill makes the fixing of fees through the rules and regulations process by the BSRB permissive, allowing for the elimination of a fee. The fee for the licensure of a clinical professional counselor is set at not more than $175 and maximum fees are established for reinstatement and replacement of license and for a wallet card license.

The bill removes the ceiling on the examination fees and allows the licensee to pay the fees directly to the exam company.

Disciplinary Action

The bill makes changes to the reasons to deny, suspend, revoke, or censure a licensee to standardize such disciplinary action across all professions. The changes made in the disciplinary action across the professions include:

- Allowing the BSRB to impose a fine not to exceed $1,000 per violation for the itemized violations cited in the bill;

- Defining incompetence as:

    - One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the BSRB;

    - Repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the BSRB; or

- A pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice;

- Authorizing disciplinary action for failure to demonstrate sufficient rehabilitation to merit the public trust after a conviction for a felony offense, a misdemeanor against persons, or being currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect;

- Requiring a two-thirds majority vote of the BSRB for the issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction; and

- Providing for administrative proceedings and disciplinary actions regarding licensure for licensed psychologists and social workers to be conducted in accordance with KAPA.

Supervisory Training Standards

Effective July 1, 2017, licensed professional counselors and marriage and family therapists providing postgraduate supervision for those working toward clinical licensure will be required to be BSRB-approved clinical supervisors. The bill establishes application procedures for obtaining this approval. Each applicant will be required to provide evidence of training and practice with no disciplinary action prohibiting providing clinical supervision, and to have completed coursework related to the enhancement of supervision skills approved by the BSRB or completed the minimum number of continuing education hours related to the enhancement of supervision skills approved by the BSRB. The continuing education requirement includes at least three hours related to the enhancement of supervisory skills, with at least one hour focusing on the ethics of supervision.

Licensed Master's Addiction Counselors

The bill creates a new category of Licensed Master's Addiction Counselor. The term is defined as a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed under the Addiction Counselor Licensure Act. The person is allowed to diagnose substance use disorders only under the direction of a licensed clinical addiction counselor, a licensed psychologist, a person licensed to practice medicine and surgery, or a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of substance use disorders or mental disorders.

Effective September 1, 2016, no person will be allowed to engage in the practice of addiction counseling or represent oneself as a licensed master's addiction counselor, a master's addiction counselor, master's substance abuse counselor, or a master's alcohol and drug counselor without having first obtained a license as a master's addiction counselor.

The requirements for licensure as a master's addiction counselor are established by the bill, as follows:

- Meets the following requirements:

- Attained the age of 21;
- Completed at least a master's degree from an addiction counseling program approved by the BSRB; completed at least a master's degree from a college or university approved by the BSRB (as part of or in addition to the master's degree coursework, the applicant also has completed a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the BRSB); or currently is licensed in Kansas as a licensed master social worker, licensed professional counselor, licensed marriage and family therapist, or licensed master's level psychologist;
- Passed an examination approved by the BSRB;
- Satisfied the BSRB that the applicant is a person who merits the public trust; and
- Paid the requisite application fee; or

- Meets the following requirements:
  - On or before July 1, 2016, holds an active license by the BSRB as an addiction counselor and completed at least a master's degree in a related field; and
  - Completed six hours of continuing education in the diagnosis and treatment of substance use disorders during the three years immediately preceding the application date.

A licensed master's addiction counselor is authorized to use the initials LAC or LMAC to designate that profession.

The bill makes provisions for a temporary license to practice as a licensed master's addiction counselor for persons waiting to take the examination for such licensure.

The requirement to practice only in a facility licensed by the Kansas Department for Aging and Disability Services is eliminated by the bill.

Temporary Licenses for Psychologists

A temporary license not to exceed two years is allowed to be issued to persons who have completed all requirements for a doctoral degree approved by the BSRB but have not received such degree conferral and who provide documentation of such completion.

BSRB Duties

The bill clarifies the duties, powers, and functions of the BSRB as involving the regulation of individuals under the Social Workers Licensure Act, the Licensure of Master's Level Psychologists Act, the Applied Behavior Analysis Licensure Act, the Marriage and Family Therapists Licensure Act, and the Addiction Counselor Licensure Act.

Interstate Medical Licensure Compact

The bill allows Kansas to join the Interstate Medical Licensure Compact (Compact). The Compact is governed by the Interstate Medical Licensure Compact Commission (Commission) and the Commission has the authority to develop rules to implement the provisions of the Compact. Once effective, the Compact remains in force unless a member state withdraws from the Compact by repealing the statute that enacted the Compact into law; however, the withdrawal does not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given to the governor of each other member state.

The bill establishes the 24 sections of the Compact, as follows:

Purpose

The purpose of the Compact is for the member states of the Compact to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards and provides a streamlined process for physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. Joining the Compact does not change a state's existing medical practice act and does require the physician to be under the jurisdiction of the state medical board where the patient is located. Participating state medical boards retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the Compact.

Definitions

A number of terms are defined, including the following:

- "Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the Compact;
- "Interstate commission" means the interstate commission created pursuant to Section 11 (of the Compact provisions);
- "License" means the authorization by a state for a physician to engage in the practice of medicine, which is unlawful without the authorization;
- "Member board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians, as directed by the state government;

- "Member state" means a state that has enacted the Compact; and

- "State of principal license" means a member state where a physician holds a license to practice medicine and that has been designated as such by the physician for purposes of registration and participation in the Compact.

Eligibility

A physician is eligible to receive an expedited license if the physician meets the requirements in the Compact's definition of physician. A physician who does not meet the Compact's definition of physician is eligible to receive a license in a member state if the physician complies with all laws and requirements relating to the issuance of a license to practice medicine in that state.

Designation of State of Principal License

A physician is required to designate a member state as the state of principal license for purposes of registration for expedited licensure through the Compact if the physician possesses a full and unrestricted license to practice medicine in that state and the state is:

- The state of primary residence for the physician;

- The state where at least 25 percent of the practice of medicine occurs;

- The location of the physician's employer; or

- If no state meets the above qualifications, the state designated as state of residence for purposes of federal income tax.

Application and Issuance of Expedited Licensure

A physician seeking an expedited license is required to file an application with the member board of the state selected by the physician as the state of principal license. Upon receipt of the application, such member board is required to evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification verifying or denying the physician's eligibility to the Commission. The member board is required to perform a criminal background check of the applicant in compliance with the requirements of the Federal Bureau of Investigation. If a physician is deemed eligible, the physician is required to submit applicable fees and complete the registration process. [*Note:* See the following section regarding fees for expedited licensure.] Upon receipt of the completed registration, a member state is required to issue the applying physician an expedited license, which allows the physician to practice medicine in the issuing state.

Fees for Expedited Licensure

A member state issuing an expedited license is allowed to impose a fee for a license issued or renewed through the Compact.

Renewal and Continued Participation

A physician seeking to renew an expedited license granted in a member state is required to complete a renewal process with the Commission and pay applicable renewal fees. A physician also is required to comply with all continuing education requirements.

Coordinated Information System

The Commission is required to establish a database of all physicians licensed or who have applied for licensure. Member states are required to report to the Commission complaints against a licensed physician who has applied for or received an expedited license. Member boards also are required to report disciplinary or investigatory information determined as necessary by rule of the Commission.

Joint Investigations

A member board is allowed to participate with other member boards in joint investigations of physicians licensed by the member boards and is allowed to share investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

Disciplinary Actions

Any member board is allowed to take disciplinary action against a physician licensed through the Compact. This section sets forth the implications to a license granted to a physician through the Compact when such license is revoked, surrendered or relinquished in lieu of discipline, or suspended by any member board.

Interstate Medical Licensure Compact Commission

This section creates the Commission; sets forth its purpose as the administrator of the Compact; and sets forth the Commission membership, rules, and meeting schedule.

The Commission consists of two voting representatives appointed by each member state who serve as Commissioners. A Commissioner is:

- An allopathic or osteopathic physician appointed to a member board;
- An executive director, executive secretary, or similar executive of a member board; or
- A member of the public appointed to a member board.

Powers and Duties of the Commission

The powers and duties of the Commission are set forth, including the following:

- Oversee and maintain the administration of the Compact;
- Promulgate rules;
- Enforce compliance with the Compact;
- Employ an executive director;
- Accept donations and grants;
- Establish a budget and make expenditures;
- Conduct business as it relates to the Commission's real and personal property; and
- Report annually to the legislatures and governors of the member states concerning the activities of the Commission during the preceding year. Such reports include reports of financial audits and any recommendations adopted by the Commission.

Finance Powers

The Commission is allowed to collect an annual assessment from each member state to cover the cost of the operations and activities of the Commission and its staff. The Commission is subject to a yearly financial audit, and the report of the audit is included in the annual report of the Commission.

Organization and Operation of the Commission

The Compact sets forth the following operational procedures of the Commission:

- Adopt bylaws within 12 months of the first Commission meeting;
- Elect or appoint annually from among the commissioners a chairperson, a vice-chairperson, and a treasurer; and
- Defend the executive director, its employees, and, in some instances, Commission representatives in legal matters, as specified in the Compact.

Rule-Making Functions of the Commission

The Commission is required to promulgate reasonable rules in order to effectively achieve the purposes of the Compact, and such rules are subject to judicial review upon the filing of a petition by any person.

Oversight of Interstate Compact

The executive, legislative, and judicial branches of state government in each member state are required to enforce the Compact and take all actions necessary to effectuate the Compact's purposes and intent. The provisions of the Compact and the rules have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

Enforcement of Interstate Compact

The Commission is required to enforce the provision and rules of the Compact. In its discretion, the Commission is allowed to initiate legal action and avail itself of any other remedies available under state law or the regulation of a profession.

Default Procedures

The grounds for default include failure of a member state to perform obligations or responsibilities imposed upon it by the Compact or the rules and bylaws of the Commission.

The Commission is required to do the following if it determined a member state had defaulted:

- Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the Commission. The Commission is required to specify the conditions by which the defaulting state must cure its default; and

- Provide remedial training and specific technical assistance regarding the default.

If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Compact upon an affirmative vote of the majority of the Commissioners.

Notice of intent to terminate is given by the Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states. The terminated state is responsible for all dues, obligations, and liabilities incurred though the effective date of termination. The defaulting state is allowed to appeal the action of the Commission to the U.S. District Court for the District of Columbia or the federal district where the Commission has its offices.

Dispute Resolution

The Commission shall promulgate rules providing for mediation and binding dispute resolution.

Member States, Effective Date and Amendment

The Compact becomes effective and binding upon legislative enactment of the Compact into law by no less than 7 states (there are more than 15 member states, at present). Thereafter, it becomes effective and binding on a state upon enactment of the Compact into law by that state.

The Commission is allowed to propose amendments to the Compact for enactment by member states; however, no amendment is effective and binding unless and until it is enacted into law by unanimous consent of the member states.

Withdrawal

Once effective, the Compact continues in force and remains binding upon every member state. A member state is allowed to withdraw from the Compact by the enactment of a repealing statute; however, the withdrawal will not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state. The withdrawing state is responsible for all dues, obligations, and liabilities incurred through the effective date of the withdrawal.

Dissolution

The Compact dissolves effective upon the date of the withdrawal or default of the member state which reduces the membership in the Compact to one member state.

Severability and Construction

The provisions of the Compact are severable and liberally construed to effectuate the purpose of the Compact.

Binding Effect of Compact and Other Laws

The Compact addresses the binding effect of the Compact and the potential conflict of laws as follows:

- Nothing in the Compact prevents enforcement of any other law of a member state that is not inconsistent with the Compact;
- All laws in a member state in conflict with the Compact are superseded to the extent of the conflict;
- All lawful actions of the Commission are binding upon the member states;
- All agreements between the Commission and the member states are binding in accordance with the terms; and
- In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, such provision is ineffective to the extent of the conflict with that constitutional provision in question in that member state.

Independent Practice of Midwifery Act

The bill creates the Independent Practice of Midwifery Act (Midwifery Act). Effective January 1, 2017, the Act will allow certified nurse-midwives to practice without a collaborative practice agreement with a person licensed to practice medicine and surgery within a limited scope practice as set forth in the bill. The bill also prohibits nurse-midwives engaged in the independent practice of midwifery from performing or inducing abortions or from prescribing drugs for an abortion.

Definitions

The following terms will become effective January 1, 2017:

- "Certified nurse-midwife" to mean an individual who:
    - Is educated in the two disciplines of nursing and midwifery;
    - Is currently certified by a certifying board approved by the Kansas State Board of Nursing (Board of Nursing); and
    - Is currently licensed under the Kansas Nurse Practice Act;
- "Independent practice of midwifery" to mean the provision of clinical services by a certified nurse-midwife without the requirement of a collaborative practice agreement with a person licensed to practice medicine and surgery when such clinical services are limited to those associated with a normal, uncomplicated pregnancy and delivery, including:
    - The prescription of drugs and diagnostic tests;
    - The performance of an episiotomy or a repair of a minor vaginal laceration;
    - The initial care of the normal newborn; and
    - Family planning services, including treatment or referral of a male partner for sexually transmitted infections;
- Professional incompetency to mean:
    - One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the Board of Healing Arts;
    - Repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the Board of Healing Arts; or

- A pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to engage in the independent practice of midwifery.

Authorization and Licensure

In order to obtain authorization to engage in the independent practice of midwifery, a certified nurse-midwife shall meet the following requirements, effective January 1, 2017:

- Be licensed to practice professional nursing under the Kansas Nurse Practice Act;
- Successfully complete a course of study in nurse-midwifery in a school of nurse-midwifery approved by the Board of Healing Arts;
- Successfully complete a national certification approved by the Board of Healing Arts;
- Successfully complete a refresher course if the individual has not been in active midwifery practice for five years immediately preceding the application;
- Be authorized to perform the duties of a certified nurse-midwife by the Board of Nursing;
- Be licensed as an advanced practice registered nurse by the Board of Nursing; and
- Have paid all fees for licensure prescribed in the Midwifery Act.

The bill specifies, effective January 1, 2017, it will be unlawful for a person to engage in the independent practice of midwifery without a collaborative practice agreement with a person licensed to practice medicine and surgery, unless such certified nurse-midwife holds a license from the Board of Nursing and the Board of Healing Arts.

The bill sets forth the process for obtaining a new or renewal license and the corresponding caps on the fees for such licenses, which will be effective January 1, 2017. The Board of Healing Arts is required to remit all moneys received from fees, charges, or penalties to the State Treasurer. The State Treasurer is required to deposit the entire amount in the State Treasury, and 10.0 percent of each amount shall be credited to the State General Fund and the remaining balance shall be credited to the Healing Arts Fee Fund.

Effective January 1, 2017, the Kansas Bureau of Investigation is required to provide criminal history record information as requested by the Board of Healing Arts for the purpose of the determination of the initial and continuing qualifications of licensees and applicants for licensure by the Board of Healing Arts.

Rules and Regulations

The Board of Healing Arts, in consultation with the Board of Nursing, is required to promulgate rules and regulations no later than January 1, 2017, pertaining to certified nurse-midwives engaging in the independent practice of midwifery and governing the ordering of tests, diagnostic services, prescribing of drugs, and referral or transfer to physicians in the event of complications or emergencies.

Statutory Oversight

Effective January 1, 2017, a certified nurse-midwife engaging in the independent practice of midwifery will be subject to the provisions of the Midwifery Act with respect to the ordering of tests, diagnostic services, and prescribing of drugs and not subject to the provisions of the statute that governs advanced practice registered nurses on those specific topics.

Standards of Care

The standards of care in the ordering of tests, diagnostics services, and the prescribing of drugs shall be those standards which protect patients and are comparable to those for persons licensed to practice medicine and surgery providing the same services.

Disciplinary Procedures

Effective January 1, 2017, the Board of Healing Arts will be allowed to deny, revoke, limit, or suspend any license or authorization issued to a certified nurse-midwife to engage in the independent practice of midwifery that is issued by the Board or will be allowed to publicly censure a licensee if an applicant or licensee is found after a hearing:

- To be guilty of fraud or deceit in practicing the independent practice of midwifery or in procuring or attempting to procure a license to engage in the independent practice of midwifery;

- To have been guilty of a felony or misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that no license will be granted to a person with a felony conviction for a crime against persons as specified in Kansas law;

- To have committed an act of professional incompetence as defined above;

- To be unable to practice the healing arts with reasonable skill and safety to patients by reason of impairment due to physical or mental illness or condition or use of alcohol, drugs, or controlled substances (provisions related to confidentiality of records related to impairment expire on July 1, 2022, unless otherwise enacted upon by the Legislature);

- To be a person who has been adjudged in need of a guardian or conservator, or both, and who has not been restored to capacity under the Midwifery Act for obtaining a guardian or conservator;

- To be guilty of unprofessional conduct as defined by rules and regulations of the Board of Healing Arts;

- To have willfully or repeatedly violated the provisions of the Kansas Nurse Practice Act or any rules or regulations adopted pursuant to that Act;

- To have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited, or suspended; to be publicly or privately censured; or have other disciplinary action taken against the applicant or licensee by a licensing authority of another state; or

- To have assisted suicide in violation of Kansas law.

No person shall be excused from testifying in any proceedings before the Board of Healing Arts under this act or in any civil proceedings under this act on the grounds that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime in Kansas, except perjury.

Nurse-midwives Council

The bill establishes a Nurse-midwives Council to advise the Board of Healing Arts in carrying out the provisions of the Midwifery Act. The Nurse-midwives Council consists of seven members, all residents of Kansas, appointed as follows:

- Two members licensed by the Board of Healing Arts to practice medicine and surgery and whose specialty and customary practice includes obstetrics, appointed by the Board of Healing Arts;

- The president of the Board of Healing Arts, or a Board member designated by the president; and

- Four members who are certified nurse-midwives licensed and appointed by the Board of Nursing.

If a vacancy occurs on the Nurse-midwives Council, the appointing authority of the position that has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any.

Finally, the bill amends the definition of “mid-level practitioner” to include a certified nurse-midwife engaging in the independent practice of midwifery under the Midwifery Act.

INSURANCE

Correction Orders; Health Care Facilities; House Sub. for SB 55

House Sub. for SB 55 permits the Secretary for Aging and Disability Services, or the Secretary's designee, to issue a correction order to a licensee of a health care facility whenever the Secretary's duly authorized representative determines the facility is not in compliance with the professional liability insurance requirements prescribed by the Health Care Provider Insurance Availability Act (Act) or the rules and regulations promulgated under the Act.

The bill requires the correction order to be in writing and served upon the licensee of the health care facility either personally or by certified mail with return receipt requested. The correction order will need to cite the specific statutory provision or rule and regulation alleged to have been violated and specify the time allowed for correction. If a licensee fails to correct the deficiency or deficiencies specified in the order, the Secretary will be permitted to assess a civil penalty. Under continuing law, that civil penalty is up to $500 per day, with the maximum assessment not to exceed $2,500.

The bill specifies the term "health care facility" has the same meaning as defined in the Act.

Pharmacy Benefits Managers—Maximum Allowable Cost Pricing and Reimbursement; Sub. for SB 103

Sub. for SB 103 enacts new law relating to contracts between pharmacies and pharmacy benefits managers (PBMs).

Definitions

The bill establishes the following definitions relating to reimbursements for certain drugs and documentation of pricing associated with those drugs:

- "List" means the list of drugs for which maximum allowable costs have been established;
- "Maximum allowable cost" or "MAC" means the maximum amount that a PBM will reimburse a pharmacy for the cost of a generic drug;
- "Network pharmacy" means a pharmacy that contracts with a PBM; and
- "Pharmacy benefits manager" or "PBM" is assigned its meaning from the Pharmacy Benefits Manager Registration Act (Act). The existing definition for a PBM follows:
    - A person, business, or other entity that performs pharmacy benefits management. Pharmacy benefits manager includes any person or entity acting in a contractual or employment relationship for a pharmacy benefits

> manager in the performance of pharmacy benefits management for a covered entity.

Under the Act, the definition of PBM specifies a number of services associated with the administration of certain pharmacy benefits, including mail service pharmacy; claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to covered individuals; clinical formulary development and management services; rebate contracting and administration; certain patient compliance, therapeutic intervention, and generic substitution programs; disease management programs involving prescription drug utilization; and the procurement of prescription drugs at a negotiated rate for dispensation to covered individuals and the administration or management of prescription drug benefits provided by a covered insurance entity for the benefit of covered individuals. [KSA 2015 Supp. 40-3822(d)]

Drug Pricing, MAC List, Appeals Process

The bill prohibits a PBM from placing a drug on a MAC list unless there are at least two therapeutically equivalent multi-source generic drugs, or at least one generic drug available from at least one manufacturer, generally available for purchase by network pharmacies from national or regional wholesalers, and the drug is not obsolete. The bill outlines additional requirements for PBMs, including:

- Providing, to each network pharmacy at the beginning of a contract term and upon request thereafter, the sources utilized to determine the MAC price;
- Providing a process for each network pharmacy provider to readily access the maximum allowable price specific to that provider;
- Reviewing and updating each applicable MAC list every seven business days and applying the updates to reimbursements by no later than one business day; and
- Ensuring that dispensing fees are not included in the calculation of MAC.

Appeals Process

The bill also requires each PBM to establish an appeal process to permit a network pharmacy to appeal reimbursement for a drug subject to MAC as outlined:

- The network pharmacy will be required to file an appeal no later than ten business days after the fill date; and
- The PBM will be required to provide a response to the appealing network pharmacy no later than ten business days after receiving an appeal request containing information sufficient for the PBM to process the appeal, as specified by the contract.

If the appeal is upheld, the PBM will be required to:

- Make the adjustment in the drug price effective no later than one business day after the appeal is resolved;

- Make the adjustment applicable to all similarly situated network pharmacy providers, as determined by the plan sponsor or PBM, as appropriate; and

- Permit the appealing pharmacy to reverse and rebill the appealed claim.

If the appeal is denied, the PBM will be required to provide the appealing pharmacy the National Drug Code number from a national or regional wholesaler operating in Kansas where the drug is generally available for purchase at a price equal to or less than the MAC and, when applicable, may be substituted lawfully.

Affiliate Transfer of Property and Casualty Insurance Policies; SB 438

SB 438 enacts new law to permit the transfer of insurance policies within a group of affiliated property and casualty insurance companies. Property and casualty policies could be renewed by either:

- Issuing and delivering the policy by the current insurer or by an insurer within the same group of affiliated insurers, replacing the existing policy at the end of the policy period or term with no gap in coverage; or

- Issuing and delivering a certificate of notice extending the term of the policy beyond its policy period or term.

The bill defines "group affiliated insurers" to mean two or more insurance companies that are under substantially the same management or financial control.

The bill requires, 30 days before the end of the existing insurance policy term, notice to the insured's last known address and made available to the agent of record that the insurance policy is being renewed by a group affiliated insurer. Notice could be satisfied by the delivery of the new policy to the insured.

Increase in Minimum Motor Vehicle Liability Insurance Policy Limit for Property Damage and Payment of Insurance Policy Proceeds by Cities and Counties; HB 2446

HB 2446 amends the Kansas Automobile Injury Reparations Act to increase the minimum motor vehicle liability insurance policy limit for property damage and amends other provisions in the Insurance Code to permit cities and counties to request payment of insurance proceeds for covered claims and updates the law pertaining to the creation of a lien in favor of such proceeds.

Kansas Automobile Injury Reparations Act—Amendments

The bill amends the Kansas Automobile Injury Reparations Act to increase the minimum motor vehicle liability insurance policy limit for property damage from not less than $10,000 to not less than $25,000 for policies issued or renewed on or after January 1, 2017. Beginning with the 2026 Legislative Interim and at least every ten years thereafter, subject to authorization by the Legislative Coordinating Council, a legislative interim study committee will be required to study whether the minimum motor vehicle liability limits for bodily injury to or death of one or more persons and for harm to or destruction of the property of others should be adjusted. Under the bill, the existing limits for bodily injury ($25,000 bodily injury to or death of one person in any one accident and $50,000 bodily injury to, or death of, two or more persons in any one accident) are unchanged.

Payment of Insurance Policy Proceeds by Cities and Counties

The bill also amends provisions in the Insurance Code pertaining to the procedure for payment of the proceeds of certain insurance policies by cities and counties. Under prior law, cities and counties were permitted, by adoption of an ordinance or resolution, to establish procedures for the payment of an amount not to exceed 15 percent of the proceeds of an insurance policy based on the covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion, or windstorm. The bill deletes references to these listed causes for damage or loss and instead permits cities and counties to request payment of insurance proceeds as long as the loss is a covered claim and makes similar updates to the law pertaining to cities and counties creating a lien in favor of such proceeds.

The bill also increases from 30 to 45 days, unless the city or county has instituted legal proceedings, the period specified for the release of the insured's proceeds and any interest that has accrued.

Under continuing law, the ordinance or resolution applies only to covered claims payments in excess of 75 percent of the face value of the insurance policy covering the building or structure.

Effective Dates

The amendments related to the Kansas Automobile Injury Reparations Act are effective from and after January 1, 2017, and publication in the statute book. The amendments to the Insurance Code related to the procedure for payment of certain insurance policy proceeds by cities and counties are effective on publication in the statute book.

Exclusive Provider Organization Insurance Product; HB 2454

HB 2454 permits a health carrier licensed to offer accident and sickness insurance in Kansas to offer an insurance product that requires some or all of the health care services to be rendered by participating providers, but requires emergency services to be covered even if not delivered by a participating provider (commonly referred to as an exclusive provider organization [EPO] product). The bill allows an EPO policy to include a gatekeeper requirement, allows the health

carrier to determine the cost-sharing amount for services rendered by non-participating providers, and defines applicable terms.

The following are among the terms defined in the bill:

- "Health carrier" means any insurance company, nonprofit medical and hospital corporation, municipal group funded pool, or fraternal benefit society that offers a policy of accident and sickness insurance subject to the Kansas Insurance Code;

- "Gatekeeper requirement" means the insured is required to obtain a referral from a primary care professional in order to access specialty care; and

- "Primary care professional" means a participating provider designated by the health carrier to supervise, coordinate, or provide initial care or continuing care to an insured and who may be required by the health carrier to initiate a referral for specialty care.

Risk-Based Capital Instructions; HB 2485

HB 2485 amends the effective date specified in the Insurance Code for the risk-based capital (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 on the RBC instructions from December 31, 2014, to December 31, 2015.

JUDICIARY

Kansas Administrative Procedure Act—Electronic Service; SB 19

SB 19 amends hearing provisions in the Kansas Administrative Procedure Act (KAPA) to allow electronic service of items filed by parties, petitions for intervention, orders, and notices. The bill also amends KAPA provisions related to adjudicative proceedings before the State Corporation Commission and Director of Taxation to allow electronic service of requests for information in such proceedings as well as specified written communications regarding the proceeding. The bill amends a KAPA provision related to adjudicative proceedings before the Commissioner of Insurance to allow electronic service of specified written communications regarding the proceeding.

A party must consent to electronic service, and such service is complete upon transmission or as specified in the consent. The consent must specify when service is complete. The bill amends the KAPA definitions statute to define "writing," "written," or "in writing" to include electronically transmitted and stored information.

Similarly, the bill amends the Kansas Judicial Review Act to allow electronic service of an order, pleading, or other matter when authorized by Supreme Court rule or a local rule.

Commercial Real Estate Broker Lien Act; House Sub. for SB 44

House Sub. for SB 44 amends the Commercial Real Estate Broker Lien Act to specify that a broker shall have a lien on commercial real estate if the broker has a written agreement with a person to represent that person in the purchase, lease, or other conveyance to the lessee or grantee of the real estate when the broker becomes entitled to compensation pursuant to that written agreement. A lien already is allowed when the agreement is for the purchase, lease, or other conveyance to the buyer of real estate.

Additionally, in the case of a lease, sublease, or assignment of commercial property, the bill increases from 90 to 180 days the amount of time within which a lien must be recorded after a lessee takes possession of the property.

Exercise of Religious Beliefs by Student Associations; SB 175

SB 175 enacts law prohibiting a postsecondary educational institution from taking any action or enforcing any policy that would deny a religious student association any benefit available to any other student association or discriminate against a religious student association related to such benefits, due to the association's requirement that leaders or members of the association adhere to or comply with the association's sincerely held religious beliefs, comply with the association's sincere religious standards of conduct, or be committed to furthering the association's religious missions.

The bill creates a cause of action for a student or religious student association aggrieved by a violation of this provision. The aggrieved party may seek appropriate relief, including monetary

damages. An aggrieved party also may assert such violation as a defense or counterclaim in a civil or administrative proceeding brought against the aggrieved party.

The bill defines "benefit," "postsecondary educational institution," "student," and "religious student association."

Public Speech Protection Act; *Habeas Corpus*; Protection from Stalking Act; Venue—Small Claims; SB 319

SB 319 creates and amends law related to civil procedure in various ways.

Small Claims Venue

The bill amends the statute governing venue for small claims to update a reference to the statutory chapter governing venue in limited actions.

Protection from Stalking Act—Drones

The bill makes changes to the Protection from Stalking Act. Under the bill, the definition of "harassment" is expanded to include any course of conduct carried out through the use of an unmanned aerial system, commonly known as drones, over or near any dwelling, occupied vehicle, or other place where one may reasonably expect to be safe from uninvited intrusion or surveillance.

The bill defines "unmanned aerial system" to mean a powered, aerial vehicle that:

- Does not carry a human operator;
- Uses aerodynamic forces to provide vehicle life;
- May fly autonomously or be piloted remotely;
- May be expendable or recoverable; and
- May carry a lethal or nonlethal payload.

Motion to Vacate Sentence—Manifest Injustice

The bill amends law concerning motions to vacate, set aside, or correct a sentence to specify that, for the purpose of finding manifest injustice, which extends the time limitation for bringing an action beyond a year, the court's inquiry is limited to determining why the prisoner failed to file the motion within the one-year time limit or whether the prisoner makes a colorable claim of actual innocence. The bill specifies "actual innocence" requires the prisoner to show it is more likely than not that no reasonable juror would have convicted the prisoner in light of new evidence.

If the court makes a finding of manifest injustice, the bill requires the court to state the factual and legal basis for such finding in writing with service to the parties. If the court, upon its own inspection of the motions, files, and records of the case, determines the time limitations under this section have been exceeded and the dismissal of the motion does not equate with manifest injustice, the bill requires the court to dismiss the motion as untimely filed.

Public Speech Protection Act

The bill enacts the Public Speech Protection Act (Act), which the bill states is intended to encourage and safeguard the constitutional rights of a person to petition, and speak freely and associate freely, in connection with a public issue or issue of public interest to the maximum extent permitted by law while, at the same time, protecting the rights of a person to file meritorious lawsuits for demonstrable injury. Further, the bill states the Act should be applied and construed liberally to effectuate its general purposes, and the invalidity of any of its provisions does not affect other provisions or applications that can be given effect without the invalid provision or application.

The bill allows a party to bring a motion to strike any claim based on, related to, or in response to a party's exercise of the right of free speech, right to petition, or right of association. The motion to strike may be filed within 60 days of the service of the most recent complaint or, in the district court's discretion, at any later time upon terms it deems proper. The bill requires a hearing on the motion to be held within 30 days of service of the motion. All discovery, motions, or other pending hearings are stayed upon the filing of the motion to strike. The stay remains in effect until the entry of the order ruling on the motion except, upon motion of a party or the court and on a showing of good cause, the court could allow specified discovery, motions, or other pending hearings to be conducted.

The party bringing the motion to strike bears the initial burden of making a *prima facie* case showing the claim concerns a party's exercise of the right of free speech, right to petition, or right of association. If the movant meets the burden, the burden shifts to the responding party to establish a likelihood of prevailing on the claim by presenting substantial competent evidence to support a *prima facie* case. In determining whether a party meets the established burden of proof, the bill requires the court to consider pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

If the responding party meets the burden, the court is required to deny the motion to strike. Further, if the court determines the responding party established a likelihood of prevailing on the claim, the bill provides the fact the court made the determination and the substance of the determination may not be admitted in evidence later in the case. Additionally, the determination does not affect the burden or standard of proof in the proceeding.

The party bringing the motion to strike has the right either to petition for a writ of mandamus if the trial court fails to rule on the motion in an expedited fashion or, within 14 days after entry of such order, file an interlocutory appeal from a trial court order denying the motion to strike.

Upon determining the moving party has prevailed on its motion to strike, the bill requires the court to award costs, attorney fees, and such additional relief, including sanctions, as determined necessary to deter repetition of the conduct. Similarly, costs and attorney fees may be awarded to a responding party if a motion to strike was frivolous or intended to delay. If a government

contractor is found to have violated the Act, the bill requires the court to send the ruling to the head of the relevant government agency doing business with the contractor.

The bill provides the Act does not apply to:

- An enforcement action brought in the name of the state or a political subdivision of the state by the Attorney General or a district or county attorney;

- A claim brought against a person primarily engaged in the business of selling or leasing goods or services, if the statement or conduct arises out of the sale or lease of goods, services, or an insurance product, services, or a commercial transaction in which the intended audience is an actual or potential buyer or customer; or

- A claim brought under the Kansas Insurance Code or arising out of an insurance contract.

The bill specifies, however, the provisions of the bill apply to a claim brought against a person primarily engaged in the business of selling or leasing goods or services when the action is brought against any person or entity based upon the creation, dissemination, exhibition, advertisement, or other similar promotion of any dramatic, literary, musical, political, or artistic work, including, but not limited to, a motion picture or television program or an article published in a newspaper or magazine of general circulation.

The bill also defines key terms.

Probate—Filing Requirements; SB 321

SB 321 removes from the statute allowing the filing of certain wills in court requirements that the decedent's probate estate contain no known real or personal property or that the value of the property be less than the total of all known demands. The requirements for the affidavit filed with the will are amended accordingly.

Notice to and Opportunity for Attorney General to Intervene before Statute or Constitutional Provision Declared Invalid or Unconstitutional; SB 334

SB 334 enacts new law and amends existing law related to the ability of the Attorney General to be fully heard before any Kansas statute or constitutional provision is determined by a Kansas court to be invalid or unconstitutional.

The new section begins by declaring the public policy of Kansas is the Attorney General should have notice and the opportunity to be fully heard before any Kansas statute or constitutional provision is determined by the Judicial Branch to be invalid or unconstitutional under the *Kansas Constitution*, the *U.S. Constitution*, or any provision of federal law.

Before declaring or making any such determination, enjoining any statute or constitutional provision for such invalidity, or entering any judgment or order determining or declaring such invalidity, a district court or district court judge, whether acting in judicial or administrative capacity, must require:

- In any criminal case, the State has been given notice of the disputed validity and an opportunity to appear and be heard on the question of validity. The notice must be served by the party disputing validity on the prosecuting attorney representing the State in the case. If the prosecuting attorney fails to respond, the court must notify the Attorney General of such failure and provide the Attorney General with the opportunity to appear and be heard on the question of validity; and

- In any civil case and all other matters, that notice of the disputed validity has been served on the Attorney General by the party disputing validity or by the court, and that the Attorney General has been given an opportunity to appear and be heard on the question of validity.

For matters before the Supreme Court or the Court of Appeals, or a justice or judge of those courts, a party filing a pleading, brief, written motion, or other filing or paper contesting the validity of any statute or constitutional provision must serve the filing on the Attorney General, with a conspicuous notice that the Attorney General is being served pursuant to this provision. The court must ensure the Attorney General has been provided notice and an opportunity to appear before the court determines any statute or constitutional provision is invalid as violating the *Kansas Constitution*, the *U.S. Constitution*, or any other provision of federal law.

If any court, justice, or judge enters a judgment or order or makes a determination or declaration in violation of this section, the Attorney General is allowed to, within a reasonable time of learning of the violation, apply to the court to set aside or rescind the court's, justice's, or judge's action. The Attorney General has the later of 30 days from the date of such action or 15 days from the date the Attorney General learned of the action to make such an application. The court is then required to enter any necessary orders to allow the Attorney General to appear and be heard. The court must set aside the action in question upon a showing it was entered in violation of this section.

The Attorney General has 21 days from the date of any notice required by this section to appear or intervene, and if the Attorney General does appear or intervene, the Attorney General shall be given such reasonable additional time to be fully heard as the court may order.

The bill states the new section shall not be construed to require the Attorney General to appear or intervene in any action, and the section does not apply in any action or proceeding in which the Attorney General is the party disputing or defending the validity of the statute or constitutional provision.

The bill amends the rule of civil procedure governing intervention to require a court to permit intervention by the Attorney General when notice to the Attorney General is required by the new section.

Finally, the bill amends the statute governing parties in an action for a declaratory judgment to require that notice and opportunity to be heard in accordance with the new section be given to the Attorney General if a statute, ordinance, or franchise is alleged to be unconstitutional.

Criminal Justice Information System; Electronically Stored Information; Hearsay Evidence Exception—Official Record or Absence of Record; SB 362

SB 362 amends law relating to the Kansas Criminal Justice Information System (KCJIS). The bill allows the Kansas Bureau of Investigation to enter into agreements with state agencies and municipalities to share and authenticate electronically stored information to the KCJIS central repository. The definition of "criminal justice information system" is amended to incorporate such electronically stored information, and a definition for "electronically stored information" is added.

The bill also includes KCJIS central repository records within the hearsay evidence exception for content of official records or absence of records.

Duties and Powers of Attorney General—Abuse, Neglect, and Exploitation of Persons; SB 408

SB 408 amends law relating to the abuse, neglect, and exploitation of persons and law relating to the duties and powers of the Attorney General.

The bill amends the list of mandatory reporters of physical, mental, emotional, or sexual abuse of a child to include licensed behavior analysts and licensed assistant behavior analysts.

The bill mandates child abuse or neglect occurring in an institution operated by the Kansas Department for Aging and Disability Services (KDADS) be reported to an appropriate law enforcement agency. Existing law mandates such reports be made to the Attorney General. The bill also clarifies the reporting to an appropriate law enforcement agency of other child abuse or neglect by KDADS or the Department for Children and Families (DCF) employees or of children of persons employed by these departments.

The bill mandates reports of child abuse or neglect occurring in an institution operated by the Kansas Department of Corrections (KDOC) be made to the Secretary of Corrections or to the Attorney General and mandates suspected child abuse or neglect in such institution be investigated by the Attorney General or the Secretary. Investigations of child abuse or neglect by employees of KDADS and DCF are to be handled by an appropriate law enforcement agency, in addition to investigations of suspected abuse or neglect of children of KDADS and DCF employees.

The bill further defines the duties of the Abuse, Neglect, and Exploitation of Persons Unit (Unit) within the Office of the Attorney General by granting the Unit certain discretionary authority to do the following:

Participate in the prevention, detection, review, and prosecution of abuse, neglect, and exploitation of persons, whether financial or physical;

- Conduct investigations of suspected criminal abuse, neglect, or exploitation of persons;

- Coordinate with and assist other law enforcement agencies, or participate in task forces or joint operations, in the investigation of suspected criminal abuse, neglect, or exploitation of persons;

- Coordinate with and assist the Medicaid Fraud and Abuse Division in the prevention, detection, and investigation of abuse, neglect, and exploitation of persons;

- Work with or participate in the Kansas Internet Crimes Against Children Task Force, and work with any exploited and missing child investigators and any other child crime investigators;

- Assist in any investigation of child abuse or neglect conducted by a law enforcement agency; and

- Assist in any investigations of adult abuse, neglect, exploitation, or fiduciary abuse conducted by a law enforcement agency.

The bill specifies the first priority of the Unit is to prevent, detect, and investigate abuse, neglect, or exploitation of vulnerable adults, such as senior citizens and the disabled. The Unit may access all records relating to a substantiated or affirmed investigation of abuse, neglect, or exploitation of an adult upon request if the Attorney General has reasonable suspicion to believe such abuse, neglect, or exploitation has occurred. The Attorney General is authorized to enter into agreements with other agencies or organizations to carry out the duties of this section. The bill mandates state agencies to report any matter involving suspected abuse, neglect, or exploitation of an adult to the Unit in addition to the appropriate law enforcement agency, and existing provisions regarding reporting are accordingly narrowed from "persons" to "adults." The bill defines "adult" and "state agency" for the purposes of the Unit and clarifies the standard for case records the Unit may access is for those cases that are substantiated or affirmed.

Sureties—Applications; Authorization; Continuing Education; Bail Enforcement Agents—Licensing; Regulation; Senate Sub. for HB 2056

Senate Sub. for HB 2056 creates and amends law relating to sureties and bail enforcement agents.

The bill adds new sections requiring compensated sureties to submit an application to the chief judge of the judicial district in each judicial district where such surety seeks to act as a surety and prohibiting any compensated sureties from acting as a surety prior to approval of such application. "Compensated surety" is defined as any person who or entity organized under Kansas law that, as surety, issues bonds for compensation, is responsible for any forfeiture, and is liable for appearance bonds written by such person's authorized agents. A "compensated surety" is either an insurance surety or a property surety, which the bill also defines.

The bill outlines the required contents of applications for insurance agency sureties, property surety, or bail agent, and allows each judicial district, by local rules, to require additional information from any compensated surety and establish what property is acceptable for bonding purposes. Judicial districts are prohibited from requiring a compensated surety to apply for authorization in such judicial district more than once a year, but may require additional reporting from a compensated surety in its discretion. Further, the bill prohibits a judicial district from declining authorization for a compensated surety based solely on the type of compensated surety. The bill states its provisions shall not be construed to require the chief judge of the judicial district to authorize any compensated surety to act as a surety in such judicial district if the judge finds, in such person's discretion, that such authorization is unwarranted.

If authorization is granted, the bill allows the chief judge to suspend or terminate the authorization at any time. If the authorization is suspended for 30 or more days, the bill requires the judge to make a record describing the length of the suspension and the underlying cause and provide the record to the surety. Upon request, the surety is entitled to a hearing within 30 days after the suspension is ordered. If the authorization is terminated, the bill requires the judge to make a record describing the underlying cause and provide such record to the surety. Upon request, the surety is entitled to a hearing within 30 days after the termination is ordered.

Among other required documents, the application for each property surety is required to include an affidavit describing the property by which such surety proposes to justify its obligations, the encumbrances thereon, a valuation of such property, and all such surety's other liabilities. A property surety authorized to act as a surety in a judicial district is allowed outstanding appearance bonds not to exceed an aggregate amount that is 15 times the valuation of the property identified in the surety's application. Additionally, the bill prohibits such surety from writing any single appearance bond that exceeds 35 percent of the total valuation of such property.

Given the new distinction between compensated and uncompensated sureties, the bill amends law to specify language requiring each surety to justify by affidavit the number and amount of other bonds and undertakings for bail entered into by the surety and remaining undischarged and all of the surety's other liabilities shall apply only to uncompensated sureties.

Beginning on January 1, 2017, the bill requires each compensated surety to obtain at least 8 hours of continuing education credits each 12-month period. The chief judge in each judicial district may provide a list of topics to be covered during the continuing education classes. If the judicial district does not require an annual application, the bill requires each compensated surety or bail agent to provide a certificate of continuing education compliance to the judicial district each year.

If an authorized compensated surety does not comply with these requirements, the chief judge of the judicial district may allow a conditional authorization to continue acting as a surety for 90 days. If the compensated surety does not obtain the required 8 hours within 90 days, the conditional authorization shall be terminated and the compensated surety will be prohibited from acting as a surety in that judicial district. Continuing education credits used to comply with conditional authorization shall not be applied toward compliance with the current or any subsequent 12-month period. Existing sureties as of the effective date of the act are exempt from the continuing education requirements for a conditional authorization until July 1, 2017.

The bill requires the Kansas Bail Agents Association (KBAA) to provide or contract for a minimum of 8 hours of continuing education classes at a cost of no more than $250 for 8 hours of continuing education classes to be held at least once annually in each congressional district. The KBAA may provide additional classes in its discretion and the cost of any class less than 8 hours shall be prorated. The bill prohibits fees charged for attending continuing education classes to be increased or decreased based upon whether a compensated surety is a member of the KBAA.

Upon completion of at least 8 hours of continuing education credits during a 12-month period, the bill requires the KBAA to issue to the surety that completed the credits a certificate of continuing compliance, which must be prepared and delivered to the surety within 30 days of completion and must detail the dates and hours of each course attended, along with the signature of the KBAA official attesting that all continuing education requirements have been completed.

The bill creates a new definitions section containing definitions of "surety," "bail agent," and "bail enforcement agent."

The bill declares it unlawful for any person to engage in the business of a bail enforcement agent without being licensed. An authorized surety or bail agent attempting to enforce a bail bond is not be deemed to be engaging in the business of a bail enforcement agent.

The Attorney General is given exclusive jurisdiction and control of the licensing and regulation of bail enforcement agents, and cities are prohibited from adopting any ordinance in this regard. Any existing ordinance is declared null and void. The Attorney General is given authority to adopt rules and regulations to carry out the new provisions.

Any applicant for a license is required to submit to the Attorney General an application and fee determined by the Attorney General, not to exceed $200. The application must be verified under penalty of perjury and include:

- Full name and business address;
- Two photographs of the applicant;
- A set of fingerprints to be submitted for a Federal Bureau of Investigation criminal history record check; and
- Employment history and criminal history.

The bill authorizes the Attorney General to conduct a state and national criminal history records check and to use information from this check to determine eligibility for a license. The Attorney General may charge a fee to cover the cost of the background check.

The Attorney General is allowed to deny, censure, limit, condition, suspend, or revoke a license for various reasons, including false statements or information given in connection with an application for a license; violation of the licensing provisions or of statutory requirements for out-of-state sureties and prohibitions on felons acting as sureties; a felony conviction; conviction within ten preceding years of a person misdemeanor, unless expunged; becoming subject to

a domestic protection order; becoming subject to the Care and Treatment Act for Mentally Ill Persons or the Care and Treatment Act for Persons with an Alcohol or Substance Abuse Problem, or similar proceedings in other jurisdictions; commission of an act (on or after July 1, 2016) while unlicensed for which a license is required (grounds for denial of license only); commission of an act (on or after July 1, 2016) that would permit the Attorney General to take some other action with regard to the license or application; commission of an act with an expired license that would be grounds for suspension, revocation, or denial of a license; or becoming subject to any proceeding that could render the licensee subject to discipline under the bill's provisions. All such actions by the Attorney General shall be pursuant to the Kansas Administrative Procedure Act.

The Attorney General is permitted to charge a fee, not to exceed $15, for application forms and materials that would be credited against the application fee.

The bill authorizes the Attorney General to determine the form of the license, and the license must include the name of the licensee and a license number and date. The licensee must post the license in a conspicuous place in the licensee's principal place of business and shall be provided with a pocket card reflecting the license. The licensee must surrender the card within five days of terminating activities or the suspension or revocation of the license. A licensee must notify the Attorney General of a change of address within 30 days.

Licenses shall expire every two years and may be renewed at that time, in the same manner as obtaining an original license (including a fee of up to $175), except the applicant is required only to update information shown on the original application or any previous renewal and provide a new photograph and fingerprints only if the photograph and fingerprints on file have been on file for more than four years. The Attorney General may require additional information by rules and regulations.

The Attorney General is given the authority to fix the application, licensing, and renewal fees annually, pursuant to the limits described above. A duplicate license may be issued for a fee of $5 if the original license was lost.

All fees or charges received pursuant to the new provisions shall be deposited in the state treasury to the credit of the Bail Enforcement Agents Fee Fund, which is created by the bill. Moneys in the Fund shall be used solely for administering and implementing the new provisions of the bill and any other law relating to the licensure and regulation of bail enforcement agents.

The unlicensed conduct as a bail enforcement agent prohibited by the bill's provisions and by other statutory provisions regarding out-of-state sureties and prohibiting felons from serving as sureties are made an unconscionable act or practice under the Kansas Consumer Protection Act, and the Attorney General is given exclusive jurisdiction to bring an action alleging a violation of such act.

Expungement statutes are amended to require expunged convictions to be disclosed and to allow them to be considered for the purposes of determining qualifications for a bail enforcement agent license. [*Note:* The bill appears to extend the sunset date for the Judicial Branch surcharge from 2015 to 2017. This extension is in previously existing law and is included in this bill to reconcile conflicting versions of the statute.]

A statute defining and governing sureties and agents of a surety is amended to reflect the new provisions, including removing the term "agent of a surety" and its definitions and replacing that with the terms "bail agent" and "bail enforcement agent" and their definitions. A bail enforcement agent is required to be licensed pursuant to the new provisions. A restriction on acting as a surety or agent with a felony conviction is amended to remove the restriction if the conviction has been expunged. Requirements for out-of-state sureties and agents are updated to reflect the new provisions.

Judicial Branch Non-Severability Repeal; HB 2449

HB 2449 repeals the non-severability provisions of 2015 HB 2005 and enacts a severability clause declaring that, if any provision of HB 2005 is held invalid or unconstitutional, then the remainder of the provisions of HB 2005 shall remain in effect.

LAW ENFORCEMENT

Reports of Missing Persons; SB 376

SB 376 amends law setting forth the duties of law enforcement agencies relating to reports of missing persons to require an agency to enter such reports into the National Crime Information Center (NCIC) and Kansas Bureau of Investigation (KBI) missing person systems within two hours of receiving the minimum data required to make such an entry, replacing a requirement to make such entry "as soon as practical."

The bill clarifies that this time limit does not apply when an agency determines a missing person is a high-risk missing person. Continuing law requires an agency to immediately make such determination known to the KBI missing person system, and the bill clarifies that an agency is to separately cause the information to be entered into the NCIC missing person system as soon as possible after the minimum information to make such entry is received.

Law Enforcement Assistance from Foreign Jurisdictions; HB 2549

HB 2549 creates law allowing the chief law enforcement executive of any law enforcement agency, or the executive's designee, to request assistance from a law enforcement agency located outside the State of Kansas, but within the United States. A law enforcement officer making an arrest or apprehension outside of his or her jurisdiction is required to deliver the offender to the first available officer from the appropriate jurisdiction. The officer making the initial arrest or apprehension also is required to assist in the preparation of affidavits to establish probable cause that the person apprehended committed a crime.

All members of any locality or public safety agency responding to a request for assistance from another jurisdiction are deemed employees of the responding locality or public safety agency for liability purposes and are subject to the liability and workers' compensation provisions provided to them as employees of their own jurisdiction. Qualified immunity, sovereign immunity, official immunity, and the public duty rule, as interpreted by the federal and state courts of the responding jurisdiction, apply to situations arising under the provisions of bill. The bill requires that the Kansas Tort Claims Act and the Kansas Workers Compensation Act be interpreted consistently with the provisions of the bill.

The bill cannot be construed to limit the actions of law enforcement officers or agencies under continuing law, which allows officers or agencies to enter into agreements with bordering states' law enforcement entities for the enforcement of controlled substances laws or for the prevention, detection, or investigation of terroristic activity.

Law enforcement officers or agencies outside of Kansas are required to make arrests and use force in accordance with Kansas law.

University Police Officer Jurisdiction; Municipal Court Fees—Kansas Commission on Peace Officers' Standards and Training Fund; Vehicle Registration Fee Surcharges—Kansas Highway Patrol Staffing and Training Fund, Law Enforcement Training Center Fund; HB 2696

HB 2696 amends law related to university police officer jurisdiction and fees and surcharges imposed for various law enforcement-related funds.

University Police Officer Jurisdiction

The bill amends language governing where university police officers (UPOs) may exercise their powers as UPOs to mirror similar provisions in the same statute that govern campus police officers (CPOs). The bill allows UPOs to exercise their powers as UPOs:

- On property occupied by the state educational institution or municipal university, a board of trustees of the state educational institution, an endowment association, an affiliated corporation, an athletic association, or a fraternity, sorority, or other student group associated with the state educational institution or municipal university;
- On property owned or operated by an affiliated corporation; and
- At the site of a function or academic program sponsored by the state education institution.

Similarly, the bill replaces language allowing UPOs to exercise their powers on streets, property, and highways immediately adjacent to the campus of the state educational institution or municipal university with language allowing the exercise of their powers on streets, property, and highways immediately adjacent to and coterminous with these properties. Again, this language mirrors that governing CPOs.

Further, the bill allows UPOs employed by the University of Kansas Medical Center (KUMC), pursuant to a written agreement between the University of Kansas (KU) Hospital Authority and the KUMC, to exercise their powers as law enforcement officers on property owned, occupied, or operated by the University of Kansas Healthcare System or the KU Hospital Authority.

The bill makes similar amendments to the statute authorizing state educational institutions to employ UPOs.

Municipal Court Fees—Kansas Commission on Peace Officers' Standards and Training Fund

The bill increases from $20 to $22.50 the fee assessed in cases filed in municipal courts, other than nonmoving traffic violations, where there is a finding of guilt or a plea of guilty, a plea of no contest, forfeiture of bond, or a diversion. Additionally, the bill increases from $2.50 to $5.00 the amount of such fee that will go to the Kansas Commission on Peace Officers' Standards and Training (KS-CPOST) Fund.

Further, the bill removes the names of funds from the statute that prohibits fees from being administered in municipal court cases except in accordance with certain statutory provisions, leaving just the statutory references to the relevant funds.

Vehicle Registration Fee Surcharges—Kansas Highway Patrol Staffing and Training Fund, Law Enforcement Training Center Fund

The bill adds two nonrefundable surcharges to each vehicle registration fee:

- A $2.00 Kansas Highway Patrol (Patrol) staffing and training surcharge, to be credited to the Kansas Highway Patrol Staffing and Training Fund that is created by the bill; expenditures from that fund shall be used by the Patrol to increase employment and retain personnel at the Patrol and shall be made in accordance with appropriation acts; and

- A $1.25 Law Enforcement Training Center surcharge, to be credited to the Law Enforcement Training Center Fund.

The bill also states it is the intent of the Legislature that the funds and moneys deposited in the Kansas Highway Patrol Staffing and Training Fund, the Law Enforcement Training Center Fund, and the Kansas Commission on Peace Officers' Standards and Training Fund be used only for the purposes set forth in law creating those funds.

LICENSES, PERMITS, AND REGISTRATIONS

Revisions to Real Estate Licensure; SB 352

SB 352 amends law related to real estate licensure, allowing non-resident real estate brokers to apply for a Kansas real estate salesperson's license. Prior law only allowed non-resident real estate brokers to apply for a Kansas real estate broker's license.

The bill also repeals an obsolete statute related to the designation of the Director of the Kansas Real Estate Commission as the agent for a non-resident licensee for purposes of service of process.

Early Access to CPA Exams; HB 2512

HB 2512 provides an option for an individual to take the certified public accountancy (CPA) examination within 60 days prior to meeting the continuing statutory education requirements if the person expects to meet the requirements. Applicants have 120 days after taking the first section of the examination to file official transcripts with either the Board of Accountancy or the testing service administering the examination. An applicant's grades for all sections of the examination may become void, subject to notice and opportunity for a hearing pursuant to the Kansas Administrative Procedure Act, if transcripts and other information are not received by the Board or testing service within 120 days. Under prior law, applicants were required to complete their educational requirements and graduate prior to taking the CPA examination.

CPA Licensure; HB 2536

HB 2536 clarifies the practice of certified public accountants (CPAs) and revises the law to reflect changes in the profession. The bill clarifies the Board of Accountancy has the discretionary authority to deny an application for a permit. The Board may issue a CPA certificate to a nonresident if the applicant passes the required examination and meets one of the three following requirements:

- The applicant meets all current requirements in Kansas;
- The applicant, when issued a certificate in another state, would have been able to meet Kansas requirements in effect at the time the other state certificate was issued; or
- The applicant has four years of licensed experience, as described by law.

Under prior law, a nonresident CPA was required to pass the examination and meet all three of the above requirements.

LOCAL GOVERNMENT

Municipalities; Thresholds Triggering Certain Accounting Requirements; SB 247

SB 247 increases thresholds that trigger certain requirements related to municipal accounting and changes certain related requirements, as follows.

- Prior law stated the governing body of any municipality with aggregate annual gross receipts of less than $275,000, and does not operate a utility, is not required to maintain fixed asset records. The bill increases this amount to $500,000.

- The bill changes the dollar amount above which an annual audit is triggered. The governing body of any municipality either having aggregate annual gross receipts of $500,000 (increased from $275,000 except for recreation commissions, for which the amount is $150,000) or general obligation or revenue bonds outstanding in excess of $500,000 (increased from $275,000) must receive an audit at least once annually.

- For those municipalities, except for unified school districts (for which annual audits are required), for which either annual gross receipts or general obligation or revenue bond outstanding debt is in excess of $275,000 but not more than $500,000, the bill adds a requirement that the municipality have its accounts examined by a licensed certified public accountant or accountants using agreed-upon procedures at least once each year, and by using enhanced agreed-upon procedures at least once every three years.

- The bill adds a requirement that a copy of each report resulting from a municipal account review be filed electronically with the Secretary of Administration within one year of the end of the municipality's fiscal year for which the review is performed, unless the Secretary grants an extension. The bill states the municipality is not required to submit the report to any other State agency, office, or official. Final payment to the accountant(s) performing an examination using agreed-upon procedures is prohibited until the report has been filed as required.

- The bill makes clarifying and conforming changes.

The provisions revised are contained in KSA 75-1117 *et seq*., related to the Municipal Accounting Board. In that act, "municipality" is defined as "county, township, city, municipal university, unified school district, library district, improvement district, drainage district, cemetery district, industrial district, irrigation district, park and recreation district, conservation district, extension council, airport or building authority, fire district, lighting district, park district, sewer district, watershed district, community junior college, groundwater management district, rural water district, zoning board, municipal energy agency or intergovernmental or joint agency, including all boards, commissions, committees, bureaus and departments of such municipalities charged with the management or administration of recreation activities, parks, hospitals, libraries, cemeteries, pensions, public improvements or any other public activities maintained or subsidized with public funds and any municipally owned or operated utility, firemen's relief association, or public or quasi-

public corporation entitled to receive and hold public moneys pursuant to any provision of state law authorizing such public or quasi-public corporation to collect or receive such public moneys."

Price Control of Real Estate; Labor Work Schedules; Nutrition Labeling; Residential Rental Property Inspections; SB 366

SB 366 prohibits cities, counties, and other political subdivisions from enacting or enforcing policies pertaining to price control of real estate, labor work schedules, and nutrition labeling. The bill also restricts cities and counties from administering residential rental property inspections if certain conditions are not met.

Price Control of Real Estate

Political subdivisions are prohibited from enacting, maintaining, or enforcing an ordinance or resolution that would control the purchase price agreed upon between the parties to a transaction of privately owned residential or commercial property. Continuing law contains a similar prohibition regarding the amount of rent charged for a lease of residential or commercial property. The bill does not impair the right of a property owner from entering into a voluntary agreement with a political subdivision that would affect the amounts of rent charged or purchase price in return for grants or incentives provided by the political subdivision to the owner. Political subdivisions may not condition the issuance of permits to an owner of private property on any requirements that would have the effect of controlling the amount of rent charged or purchase price.

Labor Work Schedules

Cities, counties, and local units of government are prohibited from affecting the work schedules of private sector employees, unless required by state or federal law. Existing ordinances enacted by cities pertaining to work schedules are void. However, the existing policies of counties and local units of government would not become void. Also under continuing law, cities, counties, and local units of government are prohibited from enacting or enforcing policies regarding private sector employees' leave, compensation, or other benefits. The law allows for an exception regarding economic development programs of state or local governments.

Nutrition Labeling

The regulation of food nutrition information and consumer incentive items served with food or nonalcoholic beverages sold at restaurants, retail food establishments, or vending machines is reserved to the Legislature. The State and "political subdivisions," as that term is defined by the bill, are prohibited from establishing or enforcing policies pertaining to:

- "Food nutrition" or "consumer incentive items," as those terms are defined by the bill;

- A license or permit issued on condition of food nutrition information or food-based health disparities;

- The restriction of food service operations based upon food nutrition information or consumer incentive items; and

- The locations where food is grown, distributed, sold, or served.

The bill may not be interpreted so as to become more restrictive than federal law or regulation affecting nutrition labeling. The food service facilities of political subdivisions are exempt from the bill, provided the political subdivision's policies do not restrict another entity. The bill may not be construed as limiting the zoning authority of political subdivisions. Political subdivisions may create and promulgate nutritional information in accordance with dietary guidelines established by the U.S. Department of Agriculture, provided the information is not used in a law or ordinance restricting any other entity.

Residential Rental Property Inspections

A city or county is prohibited from establishing or enforcing a residential property licensing policy that requires periodic interior inspections unless the lawful, resident occupant gives consent. Lawful occupants may request their residential property be inspected by the city or county, as applicable. A city or county is not prohibited from reviewing plans and conducting construction or final occupancy inspection as required by building permits.

Fire District Audits; HB 2163

HB 2163 allows the board of county commissioners of any county to order an audit of any fire district located within the county. The township or townships where the fire district is located will be responsible for the cost of the audit.

Sewer Districts—Contract Threshold; HB 2164

HB 2164 increases, from $1,000 to $2,500, the threshold at which sewer districts contracting for construction of all or part of a sewer system must seek competitive bids.

Adjoining City's Inclusion in Fire District; HB 2438

HB 2438 changes law related to fire districts created under KSA 19-3601 *et seq*. The bill allows all or part of any city adjoining the boundaries of any fire district proposed or organized under this act to be included within the fire district. Prior law allowed only a city lying within a fire district's boundaries to be included. Under continuing law, the city governing body is required to publish a notice in the official city newspaper at least 20 days prior to a regular meeting of the city governing body's intent to petition the board of county commissioners that all or part of the city be included in any proposed or organized fire district in the county and of a hearing on the proposal at the meeting. The bill also makes technical and conforming changes to existing statutory language.

OPEN RECORDS

Public Records; Open Records—Law Enforcement Recordings; Definitions; Exceptions; Charitable Gaming Information; Sub. for SB 22

Sub. for SB 22 creates and amends law relating to public records and the Kansas Open Records Act (KORA).

Law Enforcement Recordings From Body Cameras and Vehicle Cameras

The bill creates new law stating every audio or video recording made and retained by law enforcement using a body camera or a vehicle camera shall be considered a "criminal investigation record," as defined in KORA, thereby bringing such recordings within the exception from KORA for criminal investigation records, as well as under the public interest disclosure provision for such records. This new provision shall expire on July 1, 2021, unless reviewed and reenacted prior to that date.

In addition to the existing disclosures under KORA applicable to such recordings, the bill allows certain persons to request to listen to an audio recording or to view a video recording made by a body camera or vehicle camera, and the law enforcement agency shall be required to allow such listening or viewing subject to a reasonable fee. The persons who may make such a request include the subject of the recording; a parent or legal guardian of a person under 18 years of age who is a subject of the recording; an attorney for any of the previous persons listed; and an heir-at-law, an executor, or an administrator of a decedent who is a subject of the recording.

The bill defines "body camera" and "vehicle camera." The bill amends the definition of "criminal investigation records" in KORA to accommodate the new law.

KORA Definitions

The bill amends the definition of "public record" to clarify the specified recorded information falls under the definition regardless of the location of the information. The bill also adds to this definition any recorded information that is made, maintained, kept by, or in the possession of any officer or employee of a public agency pursuant to the officer's or employee's official duties, and is related to the functions, activities, programs, or operations of any public agency.

The bill specifies the definition of "private person" used in defining records that are not public shall not include an officer or employee of a public agency who is acting pursuant to the officer's or employee's official duties.

The bill also removes "officer" from the definition of "public agency" and will no longer exempt from this definition officers or employees of the State or localities who have their offices open to the public fewer than 35 hours a week.

The bill makes additional technical and non-substantive structural changes.

Kansas Open Records Act Exceptions Review

The bill continues in existence until July 1, 2021, the following exceptions to KORA:

- KSA 2015 Supp. 40-955, concerning insurance rate filings;
- KSA 2015 Supp. 45-221(a)(10)(F), concerning victims of sexual offenses;
- KSA 2015 Supp. 45-221(a)(50), concerning information provided to the 911 Coordinating Council;
- KSA 2015 Supp. 65-4a05, concerning individual identification present in documents related to licensing of abortion clinics;
- KSA 2015 Supp. 65-445(g), concerning child sexual abuse reports;
- KSA 2015 Supp. 9-513c, concerning licensing persons engaged in money transmission;
- KSA 2015 Supp. 12-5374, concerning emergency communications services;
- KSA 2015 Supp. 16-335, concerning cemetery corporations investigations;
- KSA 2015 Supp. 17-1312e, concerning investigations of cemetery corporations;
- KSA 2015 Supp. 25-2309, concerning voter registration documents;
- KSA 2015 Supp. 40-2,118, concerning fraudulent insurance acts;
- KSA 2015 Supp. 40-2,118a, concerning fraudulent insurance acts;
- KSA 2015 Supp. 40-4913, concerning termination of certain business relationships;
- KSA 2015 Supp. 75-5664, concerning the Advisory Committee on Trauma;
- KSA 2015 Supp. 75-5665, concerning the Regional Trauma Council;
- KSA 2015 Supp. 12-5611, concerning the Topeka/Shawnee County Riverfront Authority;
- KSA 2015 Supp. 22-4906, concerning criminal offender registration;
- KSA 2015 Supp. 22-4909, concerning criminal offender registration;

- KSA 2015 Supp. 38-2310, concerning records concerning certain juveniles;
- KSA 2015 Supp. 38-2311, concerning juvenile treatment records;
- KSA 2015 Supp. 38-2326, concerning juvenile offender information systems;
- KSA 2015 Supp. 44-1132, concerning discrimination in employment;
- KSA 2015 Supp. 60-3333, concerning environmental audit reports;
- KSA 2015 Supp. 65-6154, concerning emergency medical services reports;
- KSA 2015 Supp. 71-218, concerning community colleges and employee evaluation documents;
- KSA 2015 Supp. 75-457, concerning substitute mailing addresses;
- KSA 2015 Supp. 75-712c, concerning reports of missing persons;
- KSA 2015 Supp. 75-723, concerning the Abuse, Neglect, and Exploitation of Persons Unit in the Office of the Attorney General; and
- KSA 2015 Supp. 75-7c06, concerning concealed firearm records.

The bill removes an exception concerning audits of voice over internet protocol (VoIP) providers, as the underlying statute, KSA 12-5358, was repealed during the 2011 Session.

Release of Charitable Gaming Information

The bill also amends a statute allowing the Secretary of Revenue or the Secretary's designee to release or publish certain charitable gaming information obtained in bingo licensee and registration applications and renewals pursuant to the Bingo Act. The applications from which such information may be drawn are expanded to include any charitable gaming application, and the reference to the Bingo Act is updated to reference the Kansas Charitable Gaming Act.

RETIREMENT

Working After Retirement; Technical and Clarifying Revisions; House Sub. for SB 168

House Sub. for SB 168 revises statutes of the Kansas Public Employee Retirement System (KPERS) pertaining to working after retirement. The bill also makes technical and clarifying amendments to statutes pertaining to death and disability contributions, Tier 3 members, the tax status of 457 Roth accounts, optional 401(a) plans for local public employers, retirement income planning, and the Deferred Retirement Option Program (DROP).

Working After Retirement

When filing an application for retirement, an employee will certify to KPERS that the individual will not be employed by a participating employer within 60 days of ending employment and there is no prearranged agreement for employment with any participating employer. The bill defines the term "prearranged agreement for employment" to mean one where the fact and circumstances of the situation indicate that the employer and employee reasonably anticipated further services would be performed after the employee's retirement. When hiring a retirant, the appointing authority of a participating employer will certify to KPERS there was no prearranged agreement for employment. If KPERS determines a retirant entered into a prearranged employment agreement with a participating employer, the retirant's monthly benefit shall be suspended for the duration of the reemployment period plus six months after the termination of the employment. That retirant must pay to KPERS all monthly retirement benefits paid since the prearranged employment began. A participating employer that prearranged an employment agreement must indemnify KPERS for legal costs and any costs imposed by the Internal Revenue Service.

The bill extends the current exceptions to the earnings cap by three years, from July 1, 2017, to July 1, 2020, for licensed school professionals who retired prior to May 1, 2015.

The bill repeals the authority of the Joint Committee on Pensions, Investments and Benefits to approve certain working-after-retirement appeals. Instead, the participating employer files an assurance protocol with KPERS to extend the exception by one year. For hardship positions, the exception could be extended in one-year increments for a total extension not to exceed three years. The filing of an assurance protocol will be required for each one-year extension. The protocol must state the position was advertised on multiple platforms for a minimum of 30 days and that one or more of the following conditions occurred:

- No applications were submitted for the position;
- If applications were submitted, none of the applicants met the employer's reference screening criteria; or
- If applications were submitted, none of the applicants possessed the appropriate licensure, certification, or other necessary credentials for the position.

If submitted by a school district, the superintendent and board president will sign the protocol. If submitted by a municipality, which is defined broadly using a statutory reference, the governing body or its designee will sign the protocol. The Joint Committee continues to have the authority to review extensions.

Under continuing law, an individual who retired on or after May 1, 2015, may earn no more than $25,000 from a participating employer before deciding to either terminate employment or forgo monthly KPERS benefits until the end of the calendar year. Previously, for an exception period of three school years or 36 months, whichever is less, the earnings cap did not apply to certain hardship, special education, or hard-to-fill positions in school districts. The bill extends the exception period to four school years or 48 months, whichever would be less. The extended exception period applies to the individual's total term of employment with all employers under one or more of the hardship, special education, or hard-to-fill exceptions. The cap then applies regardless of the employer or position filled. Participating employers pay a 30 percent employer contribution to KPERS.

By July 1, 2019, and at least every three years thereafter, the KPERS Board of Trustees will evaluate the Retirement System's experience with employed retirants and certify a new rate, which cannot be less than 30 percent.

The bill increases the earnings cap for retirants under the Kansas Police and Firemen's Retirement System from $15,000 to $25,000.

The bill extends the deadline placed on the Joint Committee on Pensions, Investment and Benefits, from July 1, 2016, to July 1, 2021, to study the compensation limitations place on retirants who work after retirement.

Technical and Clarifying Amendments

The bill places a moratorium on contribution amounts made for death and disability benefits, commencing on April 1, 2016, and ending on June 30, 2017.

The accidental service-connected death benefit applies to KPERS Tier 3 members. This allows surviving spouses or dependents to receive a lump sum payment of $50,000 and a monthly, lifetime benefit equal to 50 percent of the deceased member's final average salary, which will be based on an average of the member's final three years of compensation. The annuity interest rate for Tier 3 members who take early retirement is adjusted from 6 percent to the actuarially assumed investment rate of return, which will be established by the KPERS Board of Trustees, minus 2 percent. This provision makes the annuity rates consistent across all retirement options for Tier 3 members.

The bill clarifies the tax status of contributions and distributions associated with Roth accounts within KPERS' deferred compensation 457 plan. Under federal tax law, Roth 457 contributions are taxable in the year in which they are contributed, and qualified distributions are not taxed. The State taxes the contributions and distributions in the same manner as the federal government.

KPERS may establish an optional 401(a) plan for local participating employers who adopt the KPERS 457 plan. In 2002, the Legislature granted KPERS the authority to establish a 401(a)

defined contribution plan for state employees, but KPERS has not created that plan. Under a 401(a) plan, an employer is not required to pay Social Security taxes on employer contributions.

KPERS may share pension data for 457 plan participants with the plan's record keeper for the purpose of retirement income planning.

Members of the Kansas Highway Patrol who participate in the DROP Plan, which is a voluntary pilot deferral program that was authorized in 2015, may have their retirement benefits recalculated, taking into account any payments of the member's accumulated sick and annual leave compensation made at retirement. If the member's recalculated final average salary is higher than the final average salary used in the calculating the member's monthly DROP accrual, then after DROP participation has been completed, which under continuing law may be for three to five years, the member's retirement benefit is based on the recalculated amount. The difference between a member's monthly DROP accrual and recalculated monthly retirement benefit is credited as a non-interest bearing lump sum to the member's account prior to ending participation in the DROP Plan.

The bill exempts retirants who work as election poll workers from having KPERS contributions deducted from their compensation.

STATE FINANCES

State Budget; House Sub. for SB 161

House Sub. for SB 161 includes funding for FY 2016, FY 2017, and FY 2018 supplemental expenditures for most state agencies and FY 2016 and FY 2017 capital improvements for selected state agencies.

FY 2016

The approved FY 2016 budget totals $15.6 billion, including $6.3 billion from the State General Fund. The approved budget increases the Governor's recommended expenditures by $3.8 million, including $3.2 million from the State General Fund in FY 2016. The increase is primarily due to a $2.0 million State General Fund addition to the Osawatomie State Hospital to address recertification and understaffing and a $1.0 million State General Fund increase to Larned State Hospital to address understaffing issues. Other adjustments to the Governor's recommendations include:

- Added language allowing the Governor to have enhanced allotment authority in FY 2016 if the State General Fund ending balance is projected to fall below $100.0 million. The enhanced authority allows the Governor to reduce State General Fund expenditures in the Executive Branch in an amount necessary to bring the State General Fund ending balance to $100.0 million;

- Added language allowing the reduction of employer contributions to KPERS in FY 2016 and requiring repayment by September 30, 2016, with 8.0 percent interest;

- Added language prohibiting the approval of STAR bonds in Wyandotte County for FY 2016. If legislation is enacted during the 2016 Session which provides for STAR bond reform including the nine criteria listed in the Legislative Post Audit review, then this proviso will be null and void (This provision was vetoed by the Governor. The veto was sustained on March 23, 2016.);

- Deleted language prohibiting the Department of Revenue from expending any funds to mail motor vehicle registration applications for FY 2016; and

- Added language prohibiting privatization of Osawatomie State Hospital and Larned State Hospital in FY 2016 without specific authorization by the Legislature.

FY 2017

The approved FY 2017 budget totals $16.1 billion, including $6.3 billion from the State General Fund. The approved budget decreases the Governor's recommended expenditures by $35.8 million, including $69.4 million from the State General Fund in FY 2017. The all funds decrease is primarily due to the elimination of the KPERS death and disability employer contributions which results in a decrease of $39.5 million, including $30.4 million from the State General Fund. The

remainder of the State General Fund reduction is mainly in the restoration of Children's Initiatives Fund expenditures that the Governor had recommended to be funded instead from the State General Fund. The Governor also recommended transferring funding from the Children's Initiative Fund to the State General Fund that the Conference Committee reversed. The net effect of these recommended changes reduces both State General Fund expenditures and State General Fund revenues and increases special revenue fund expenditures and revenue by the same amount. Other adjustments to the Governor's recommendations include:

- Added $2.5 million from the State General Fund to fund a 2.5 percent salary increase in Corrections for adult and juvenile corrections officers;

- Added language allowing the Governor to have enhanced allotment authority in FY 2017 if the State General Fund ending balance is projected to fall below $100.0 million. The enhanced authority allows the Governor to reduce State General Fund expenditures or transfer money from special revenue funds into the State General Fund in the Executive Branch in an amount necessary to bring the State General ending balance to $100.0 million;

- Added language prohibiting the approval of STAR bonds in Wyandotte County for FY 2017. If legislation is enacted that will provide for STAR bond reform, including the nine criteria listed in the Legislative Post Audit review, then this proviso will be null and void (This provision was vetoed by the Governor. The veto was sustained on March 23, 2016.);

- Deleted $562,000 from special revenue funds and language prohibiting the Department of Revenue from expending any funds to mail motor vehicle registration applications for FY 2017;

- Added $378,000 from the State General Fund for Safety Net Clinics in the Department of Health and Environment for FY 2017;

- Deleted $292,251 from special revenue funds in the Department of Agriculture to reestablish the Board of Veterinary Examiners as a separate agency;

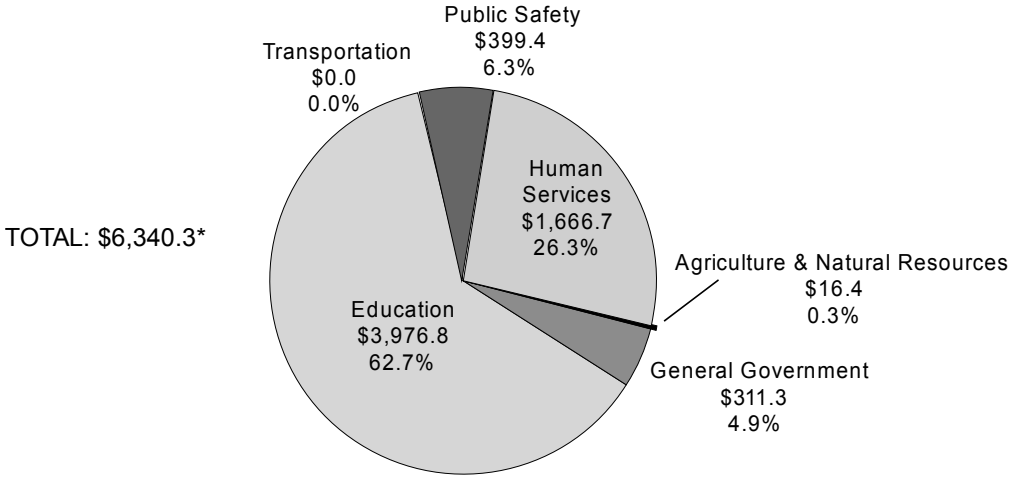
- Added language preventing the Governor from making reductions to KPERS employer contributions for FY 2017;

- Added language limiting State General Fund debt service to no more than 4.0 percent of the average State General Fund Revenue for the previous three years. Language also was added to bar any debt obligations in excess of $5.0 million if issued using any entity other than the Kansas Development Finance Authority for FY 2017;

- Added language to set a 19.0 percent debt service limitation on the State Highway Fund for FY 2017; and

- Added language prohibiting privatization of Osawatomie State Hospital and Larned State Hospital in FY 2017 without specific authorization by the Legislature.

FY 2017 Approved State General Fund Budget by Function of Government
(Dollars in Millions)



* NOTE: Total state expenditures do not include $30.4 million in statewide KPERS Death and Disability payment savings.

Omnibus Funding for FY 2016, FY 2017, and FY 2018; House Sub. for SB 249

House Sub. for SB 249 includes omnibus funding for FY 2016, FY 2017, and FY 2018 expenditures for most state agencies.

FY 2016

For FY 2016, the bill increases the Governor's recommended expenditures by $124,362, including $61,418 from the State General Fund. The increase is primarily due to funds to reimburse McPherson and Butler counties for legal cost incurred for sexually violent predator proceedings. Other adjustments to the Governor's recommendation include:

- Added $61,418 from the State General Fund to reimburse McPherson and Butler counties for legal cost incurred for sexually violent predator proceedings;

- Added $40,000 from special revenue funds for the Interstate Compact for Recognition of Emergency Medical Personnel Licensure;

- Added language directing no state agency to expend any moneys to demolish the Docking State Office Building or reconstruct, relocate, or renovate the power plant for FY 2016;

- Added language that exempts from the Governor's special allotment authority any item of appropriation for any state agency or school district educating students in K-12 for FY 2016 and FY 2017; and

- Added language directing no expenditures can be made during FY 2016 and FY 2017 to proceed with integration of the Medicaid Home and Community Based Services waivers if the proposed integration is planned to occur prior to FY 2019. In addition, including language requiring reports to the Legislature during FY 2017.

FY 2017

For FY 2017, the bill increases the Governor's recommended expenditures by $595,965, including $348,833 from the State General Fund. The increase is primarily due to a $319,000 State General Fund addition to keep caseload savings within the Department of Corrections for evidence-based juvenile justice programs for FY 2017. Other adjustments to the Governor's recommendation include:

- Added $127,832 and 2.0 FTE positions for increased expenditures resulting from Sub. for HB 2289;

- Added $319,000 from the State General Fund to keep caseload savings within the Department of Corrections for evidence-based juvenile justice programs for FY 2017;

- Added $89,300 from special revenue funds for memorial signage program in the Department of Transportation;

- Added language directing no state agency to expend any monies to demolish the Docking State Office Building or reconstruct, relocate or renovate the power plant for FY 2017;

- Added language removing the restrictions on tuition increases for Regents institutions imposed by the 2015 Legislature for FY 2017;

- Added language requiring the Director of the Budget to calculate State General Fund allotments for any state university as a uniform percentage from the total of all operating budget accounts of the State General Fund and special revenue funds of each state educational institution for FY 2017;

- Added language directing State General Fund revenues in excess of the April 2017 consensus revenue estimate on June 30, 2017, to be deposited in the Kansas Public Employee Retirement Trust Fund for FY 2017; and

- Added language directing that an amount of State General Fund monies equivalent to the amount received in Tobacco Settlement Funds in excess of all expenditures and transfers made from the Kansas Endowment for Youth Fund be deposited in the Kansas Public Employee Retirement Trust Fund for the purposes of repaying the lapsed amount of KPERS employer contributions plus 8.0 percent per annum for FY 2017.

FY 2018

Adjustments to the Governor's recommendation include:

- Added language directing State General Fund revenues in excess of the April 2018 consensus revenue estimate on June 30, 2018, to be deposited in the Kansas Public Employee Retirement Trust Fund for FY 2018;

- Transferred the amount received in Tobacco Settlement Funds in excess of all expenditures and transfers made from the Kansas Endowment for Youth Fund to the Kansas Public Employee Retirement Trust Fund for the purposes of repaying the lapsed amount of KPERS employer contributions plus 8.0 percent per annum for FY 2018; and

- Added language directing that if on June 30, 2018, the Kansas Public Employee Retirement Trust Fund has not been fully repaid for the amount of the delayed contribution plus interest the Director of Account and Reports certify a transfer from the State General Fund to the KPERS Trust Fund in this amount on June 30, 2018, for FY 2018.

Performance Budgeting and Reserve Funds; Key Deposit Funds; HB 2739

HB 2739 directs the Secretary of Administration, in consultation with the Division of the Budget, the Office of Revisor of Statutes, and the Kansas Legislative Research Department, to develop a revised budget process. On or before January 9, 2017, the agencies are required to prepare a program service inventory, to include:

- Identification of programs by function and purpose;

- State or federal statutory authority for those programs;

- An indication of whether the programs are mandatory or permissive;

- Program history and objectives;

- Any state matching or maintenance of effort requirements for federal funds;

- Prioritization of all programs and subprograms; and

- A description of the consequence of not funding each program or subprogram.

On or before January 6, 2018, the bill requires the revised budget process to result in common accounting procedures from budget development through actual expenditures by fund.

On or before January 14, 2019, the bill requires the revised budget process to result in a system of performance budgeting using outcome measures to evaluate program effectiveness.

The bill also establishes the Budget Stabilization Fund within the State Treasury as of July 1, 2017. The bill prohibits expending moneys from the Fund without an act of the Legislature or approval from the State Finance Council. The Budget Stabilization Fund retains any interest earnings from funds deposited within it. Any moneys contained within this fund would be included as part of the State General Fund ending balance for purposes of the Governor's Budget Report to the Legislature. However, the bill prohibits the Secretary of Administration from considering the balance in the Budget Stabilization Fund for the purpose of determining whether an allotment is warranted.

The bill further directs the Legislative Budget Committee to meet for up to ten days between the 2016 and 2017 Legislative Sessions to study and review policies concerning transfers to, and expenditures from, the Budget Stabilization Fund. The review by the Legislative Budget Committee will include but not be limited to:

- Analyzing risk-based budget stabilization practices in other states;
- The appropriate time period over which to analyze State General Fund revenues and expenditures;
- Which entity should certify the reserve amount necessary in the Budget Stabilization Fund;
- Sources of funding for the Budget Stabilization Fund;
- The appropriate level of risk of exhausting the balance within the Budget Stabilization Fund during an economic downturn; and
- The circumstances under which money could be withdrawn from the Budget Stabilization Fund.

Key Deposit Funds

The bill removes the authorization for the Chief Administrative Officer at the Kansas state hospitals to establish key deposit funds to retain moneys from Kansas state employees provided as security deposits for keys to the state facilities.

STATE GOVERNMENT

Emergency Medical Services Board; SB 224

SB 224 allows the Emergency Medical Services (EMS) Board to impose fines, issue subpoenas, and investigate violations, as specified in the bill. The bill also changes the number of physicians required on the Medical Advisory Council from two to one. In addition, the bill requires the EMS Board to prepare an annual report on the fines and subpoenas issued by the Board each year, which will be submitted to the Senate and House Committees on Federal and State Affairs.

Cowley County, Official Stone Bridge Capital; SB 278

SB 278 designates Cowley County as the official "Stone Bridge Capital" of Kansas.

Kansas State University Polytechnic Campus; SB 423

SB 423 changes the name of Kansas State University - Salina, College of Technology to Kansas State University Polytechnic Campus in statutes including the name of that institution.

Official Cage Elevator; SB 443

SB 443 names the cage elevator in the Kansas State Capitol Building the official cage elevator of the State of Kansas and requires the cage elevator to be maintained in operating condition.

Fireworks and Fire Extinguisher Industry Fees; SB 459

SB 459 repeals the authority of the State Fire Marshal to charge certification, licensing, permitting, and inspection fees to the fireworks and fire extinguisher industries in Kansas.

Student Privacy and Title IX Guidance; SR 1798

SR 1798 addresses a response to the executive and legislative branches of the federal government regarding the May 2016 federal directive on transgender students in schools that receive federal funding. The resolution states that the Kansas State Senate supports the right of states and local school boards, not the federal government, to direct education policy. The resolution specifies the following additional positions of the Kansas State Senate:

- It stands steadfast in its support for the privacy and safety rights of all students in public schools, colleges, and universities in this state;

- It stands steadfast in its support for parents who send their minor children to school, expecting that public schools will not allow their children to be viewed in various

states of undress by members of the opposite sex, or to view members of the opposite sex in various states of undress;

- It encourages public schools, colleges, and universities in this state to uphold their primary responsibility to protect the privacy and safety of all students and to therefore disregard the Obama Administration Title IX guidance;

- It strongly opposes the Obama Administration Title IX guidance as an act of executive overreach that threatens the right to privacy, safety, and education of students in this state; and

- It strongly encourages the Congress of the United States to curtail the Obama Administration Title IX guidance by using every legislative tool in its power, including:

    - Passing legislation to protect students' privacy rights;

    - Reassuring states, schools, and other educational institutions that they will not lose federal education funding by disregarding the Title IX guidance;

    - Withholding funding for the U.S. Departments of Justice and Education that would otherwise be used to implement the guidance; and

    - Holding hearings to investigate the process by which the U.S. Departments of Justice and Education developed the guidance and holding those responsible for the decision accountable for their overreach.

The resolution also expresses gratitude and support for the Attorney General of the State of Kansas for joining litigation against the U.S. Departments of Justice and Education challenging the Obama Administration Title IX guidance, as well as gratitude for joining as *amicus curiae* in the petition to rehear the case *en banc* of *Grimm v. Gloucester County School Board* in the U.S. Court of Appeals for the Fourth Circuit.

The resolution requires the Secretary of the Senate to send an enrolled copy of the resolution to the Governor, the Attorney General of the State of Kansas, the President of the United States, the President of the U.S. Senate, and the Speaker of the U.S. House of Representatives.

Distribution of Information Technology Security Audit Reports; HB 2442

HB 2442 amends provisions in the Legislative Post Audit Act governing distribution of information technology audits conducted by the Legislative Division of Post Audit.

The bill requires the completed reports be furnished to both the controlling officer or body and the chief information technology officer of the branch of government in which the entity being audited is located.

The bill does not change existing provisions that require distribution to the entity being audited, the Legislative Post Audit Committee, the Joint Committee on Information Technology, and other persons as required by law or by specifications of the audit, or as directed by the Legislative Post Audit Committee.

TAXATION

Income and Excise Taxation; House Sub. for SB 149

House Sub. for SB 149 makes several changes in law related to income, sales, and electronic cigarette taxes.

The sunset for the angel investor tax credit program, which offers qualified investors transferable state income tax credits of 50 percent, is extended by 5 years, from tax year 2017 to tax year 2022.

Additional provisions create a new individual income tax checkoff program authorizing taxpayers to donate to local school districts of their choice. Donations can be made in an amount of $10, $25, $50, or any another amount designated by taxpayers (including the entire amount of a given refund). Moneys donated are required to be treated as donations to school districts in accordance with KSA 72-8210 and be reported as gifts for purposes of the Kansas Uniform Financial and Reporting Act.

Another provision requires placement on the individual income tax form of a line for payment of sales tax on out-of-state and internet purchases where the tax was not previously paid (something the Department of Revenue already has been doing administratively for over a decade).

A cap on the amount of community improvement district sales taxes that the Department of Revenue may retain to help defray administrative costs is increased from $60,000 to $200,000.

The bill also provides a temporary sales tax exemption for the Gove County Healthcare Endowment Foundation, Inc., for the purpose of constructing and equipping an airport in Quinter, Kansas. Additional language clarifies this exemption also is extended to qualifying purchases made by any contractor hired for that project. The exemption sunsets on July 1, 2019.

An additional temporary sales tax exemption exempts all sales of tangible personal property and services purchased during calendar year 2016 necessary to construct, reconstruct, repair, or replace any fence damaged or destroyed by fire occurring during calendar year 2016. Sales tax refunds are available for such sales tax paid on and after January 1, 2016, but prior to the effective date of the bill if appropriate documentation necessary for such refund is provided by the taxpayer.

Finally, the effective date of a new tax enacted in 2015 on the privilege of selling or dealing electronic cigarettes is delayed from July 1, 2016, to January 1, 2017.

Property Tax—Various Provisions; House Sub. for SB 280

House Sub. for SB 280 makes a number of changes in law generally relating to property taxation.

Tax appeal decisions. One set of provisions in the bill clarifies the law governing the issuance and review of Board of Tax Appeals (BOTA) decisions. An aggrieved party is authorized to file a petition for reconsideration after a full and complete opinion had been rendered. Also, an aggrieved party may file a petition for review in the Kansas Court of Appeals after a full and complete BOTA opinion has been issued. Taxpayers also may appeal any summary decision or full and complete BOTA opinion by filing a petition for review in district court. Tax appeals to district court are considered *de novo* trials with evidentiary hearings during which issues of law and fact will be determined anew. District court reviews of BOTA orders relating to property valuation are to be conducted by the court of the county in which the property in question is located.

Removal of appraisers. The bill authorizes the Department of Revenue's Director of Property Valuation to remove from the list of persons eligible to serve as county or district appraisers anyone failing to meet continuing education requirements established by the state; pleading guilty or *nolo contendere* or having been convicted of certain crimes; or having been the subject of a final civil judgment finding fraud, misrepresentation, or deceit in appraising property.

Delinquent property taxes. Another provision raises the interest rate for delinquent real property taxes by five percent. Prior law provided that the interest rate for delinquent property taxes was established at a foundation rate developed in KSA 2015 Supp. 79-2968 (a federally-determined underpayment rate plus one percent). The bill raises the interest rate to the foundation rate plus an additional five percent.

Tax liens. The bill prohibits tax liens being filed against the owner or lessee of certain real property upon which abandoned or repossessed personal property was situated, provided such personal property had been assessed taxes that had not yet been paid. The bill extinguishes all tax liens on the owner or lessee acquiring this type of personal property, and the owner or lessee is not liable for any property taxes owed prior to the date the personal property was acquired.

Delinquent tax list checks. County treasurers are required to check delinquent real property tax lists for the preceding seven years before allowing certain claims to be paid by counties.

Valuation of oil and gas leases. New language requires production information used to establish the fair market value of producing oil and gas leases that have commenced production during the preceding calendar year be limited to production occurring prior to April 1 of the calendar year in which the property is assessed. Information used to establish the fair market value of any base lease or property producing oil and gas for the first time in economic quantities on and after October 1 of the preceding calendar year will be limited to production occurring prior to July 1 of the calendar year in which the property is being assessed.

"Bed and breakfast" property. The definition of "bed and breakfast" property defined as residential and eligible for the 11.5 percent assessment rate is expanded to include property with 5 or fewer bedrooms available for overnight guests who stay for not more than 28 consecutive days.

Recreation commission budget. The bill grants the Blue Valley Unified School District the power to approve or modify the proposed budget of the Blue Valley Recreation Commission.

Airport property tax exemption. A property tax exemption is provided for tax years 2016 to 2020 for property owned and primarily operated as an airport by a healthcare foundation also exempt for federal income tax purposes.

Property valuation procedure. With respect to matters properly submitted to BOTA regarding property valuation, county appraisers are required to demonstrate compliance with valuation methodologies developed by the Director of Property Valuation.

County appraisers are prohibited from requesting certain information from taxpayers, including appraisals conducted for the purpose of obtaining mortgage financing, fee appraisals conducted within the previous 12 months, and documents detailing certain lease agreements.

During informal meetings with taxpayers, county appraisers substantiating the valuation of property are required to provide a summary of the reasons valuation had been increased, list all assumptions used in determining the value of the property, provide a description of the property characteristics, and provide all specific valuation records and conclusions. County appraisers at this time are required to take into account all evidence provided by taxpayers regarding deferred maintenance and depreciation of the property in question.

Agricultural use. A taxpayer's classification of property as land devoted to agricultural use is deemed valid when executed lease agreements or any other documentation is provided demonstrating a commitment to use the property for agricultural purposes, provided no other actual use of the property is evident.

For parcels containing agricultural land and land used for suburban residential, rural home sites, or farm home sites, county appraisers are required to disaggregate the portion devoted to agricultural use and value it separately.

Mass appraisal. Appraisal procedures and standards utilized by county appraisers are no longer required to be adaptable to mass appraisal. Moreover, appraisals produced by the computer-assisted mass appraisal system no longer meet the definition of "written appraisal" pursuant to KSA 79-504.

At informal hearings involving valuation of property established by counties under computer-assisted mass appraisal, the results of independent market-based appraisals conducted within the previous three months by persons certified pursuant to KSA 2015 Supp. 58-4102 presented by taxpayers are presumed to be correct and valid. Counties have the option of appealing the results of such independent appraisals to BOTA.

For two years following a taxable year wherein the valuation of a parcel of commercial real property has been reduced due to the appeals process, county appraisers are required to review the computer-assisted mass appraisal of the property and, under certain circumstances when such valuation has increased by more than five percent, adjust the value of the property based on information provided in the previous appeal, or order a certified independent fee appraisal.

For counties failing to meet certain minimum commercial appraisal standards, the Director of Property Valuation is required to perform (or contract with an independent third party to perform) a market-based appraisal of at least one percent of commercial properties otherwise appraised

under computer-assisted mass appraisal to test the accuracy of that system. The bill requires properties to be selected to represent a sample of commercial property types which failed to meet statistical compliance, and property owners of the selected commercial parcels are allowed to meet with appraisers to offer pertinent data and insight on issues affecting valuation. If the quality assurance analysis reveals a statistical deviation of more than 5 percent on more than 25 percent of the audited properties, the Director is required to perform additional audits and take any corrective action necessary to ensure fair and accurate appraisals.

Inspection of parcels. The bill repeals statutory language that had deemed counties to be in compliance with a requirement to view and inspect all real estate parcels once every 6 years when 17 percent or more of the parcels had been viewed or inspected in any given year.

Fee-simple appraisal option. Within 60 days after notice of informal meeting results or final determination of valuation has been mailed, aggrieved taxpayers who have not filed further appeals with BOTA will have the option of filing with their county appraisers certified fee-simple appraisals that reflect the valuation of the property in question as of January 1 of the tax year in question. County appraisers subsequently are required to review and consider such appraisals prior to mailing supplemental notices of final determination of valuations within 90 days. County appraisers face the burden of proof in disputing the fee-simple appraisal valuations and further are required to explain the reasons such valuations were not utilized in the supplemental notices. Taxpayers aggrieved of the final valuations in such notices have an additional 30 days to appeal to BOTA.

Study result presentations. For all counties failing to meet minimum requirements for substantial appraisal compliance, the Director is required to present the most recent sales-ratio study results, as well as the results of any subsequent audits, to boards of county commissioners in open meetings. Any such presentations are required to include summary information on the number of valuation protests and their outcomes.

Market study analysis publication. Finally, the bill requires appraisers to publish the results of the annual market study analysis in both the official county newspaper and on the official county website, if the county has an official county website. The bill also changes the timing of publication from at least five business days prior to the mailing of valuation notices to at least ten business days prior to the mailing of the valuation notices.

Property Tax Lid; Senate Sub. for HB 2088

Senate Sub. for HB 2088 accelerates by one year (from January 1, 2018, to January 1, 2017) the effective date of a tax lid for cities and counties, originally approved in 2015 legislation. Under the tax lid provisions, increases in property tax dollars levied beyond the rate of inflation generally require voter approval, except that certain types of property tax increases are exempt from the computation involved in determining whether mandatory elections are necessary.

New clarifying language stipulates that the inflation measure utilized will be a five-year rolling average, and under no circumstances could a figure be utilized of less than zero.

A number of exemptions enacted in the 2015 law also are modified. Under the new language, exemptions will apply for property tax increases attributable to:

- Construction of new structures, improvements, remodeling or renovation of existing structures, or improvements on real property, exclusive of ordinary maintenance or repair;
- Increased personal property valuation;
- Real property located within added jurisdictional territory;
- Real property that has changed in use;
- Certain bond and interest payments;
- Certain special assessments;
- Court judgments or settlements of legal actions against the cities or counties, as well as legal costs directly related to such judgments or settlements;
- Expenditures specifically mandated by federal or state law becoming effective after July 1, 2015. (Additional language clarifies this exemption applies to taxes levied to recover the loss of funds from federal sources after January 1, 2017, where local units are contractually obligated to provide services.);
- Expenses relating to certain federal, state, or local disasters or emergencies declared by a federal or state official (including certain financial emergencies). Boards of county commissioners may request the Governor to declare such disaster or emergency;
- Expenditures used exclusively for increased law enforcement, fire protection, or emergency medical services above the rate of inflation. Such expenditures may not be utilized for the construction or remodeling of buildings;
- Principal and interest on state infrastructure loans, bonds, temporary notes, no-fund warrants, and certain payments made to public building commissions and lease payments;
- Expiration of property tax abatements;
- Expiration of tax increment financing districts, rural housing incentive districts, neighborhood revitalization areas, or other property tax rebate or redirection programs; and

- Certain increases associated with the loss of property valuation occurring as a result of legislative action, judicial action, or Board of Tax Appeals rulings.

An additional exemption from the mandatory election requirements applies when property tax dollars levied have declined in one of the three preceding years and the proposed increase for the upcoming year does not exceed the average rate of inflation for the three preceding years.

Finally, certain property tax increases are excluded from the computation relative to levies made by cities and counties on behalf of other subordinate political or governmental subdivisions when cities and counties are not empowered to modify or reduce such levies.

Language relative to tax-lid elections that are triggered clarifies such elections could occur as special elections, as part of regularly scheduled elections held in August or November of election years, or as elections held pursuant to the provisions of the Mail Ballot Election Act (MBEA). An existing MBEA restriction is relaxed to authorize cities and counties to hold tax-lid-related elections under the MBEA on the same day. Under the legislation, cities and counties are responsible for paying all costs associated with conducting tax-lid elections.

Several statutory dates relating to the transmission of assessed valuation estimates and certification of tax rolls by local officials are adjusted to accommodate those cities and counties subject to the election requirements.

TRANSPORTATION AND MOTOR VEHICLES

Increasing Certain Vehicle Combination Lengths, Weight Limits of Natural Gas Vehicles; Sub. for SB 99

Sub. for SB 99 increases vehicle length limits for stinger-steered automobile transporters and for certain combinations used to transport custom harvester equipment, and it increases certain weight limits for vehicles operated by engines fueled primarily by natural gas.

- The length limit for stinger-steered automobile transporters increases from 75 feet to 80 feet exclusive of front and rear overhang. Allowable overhang for those vehicles is increased from three to four feet beyond the front and from four to six feet beyond the rear of the transporter.

- The bill excludes from other length limits a combination of one truck-tractor and two trailers or one truck-tractor, semitrailer, and trailer used to transport equipment used by custom harvesters under contract to agricultural producers to harvest wheat, soybeans, or milo during the months of April through November. The overall length of the combination of vehicles cannot exceed 81.5 feet, excluding load. Former length limits applicable to custom harvesters were 65 or 75 feet (excluding overhang), depending on the combination of vehicles and the load.

- The bill allows a vehicle operated by an engine fueled primarily by natural gas to exceed the vehicle weight limits in a statute limiting axle weights by an amount equal to the difference between the weight attributable to the natural gas tank and fueling system and the weight of a comparable diesel tank and fueling system, up to a maximum gross vehicle weight of 82,000 pounds.

Memorial Signs for DUI Crash Victims; House Sub. for SB 245

House Sub. for SB 245 requires the Secretary of Transportation (Secretary) to establish and implement a DUI memorial signage program, on highways under the Secretary's jurisdiction that are not city connecting links. The bill requires the Secretary to design a memorial sign indicating the names and ages of victims killed in an accident in which the driver of the other vehicle was under the influence of alcohol or drugs, the date of the accident, and other information as determined by the Secretary. The bill also requires the Secretary to design a logo, to be copyrighted, for use in public service announcements or programs to increase awareness of the dangers of driving under the influence of drugs or alcohol (DUI).

The bill requires the application for such a sign include the date of the accident, the names and ages of the victims, and other information required by the Secretary. An application for a memorial sign can be filed by an immediate family member (defined in the bill to mean father, mother, child, sibling, grandparent, grandchild, or spouse). Also, if an immediate family member requests denial of the application or removal of the sign, the bill requires the application be denied or the sign removed.

Upon confirmation that the driver of the other vehicle was under the influence of drugs or alcohol and that the driver of the vehicle the victim was in was not in violation of any Kansas law that was the cause of the accident, the bill requires the Secretary to place a memorial sign along the highway right-of-way reasonably near to the location of the accident. Such a sign can not be placed until the Secretary has received sufficient moneys from gifts and donations to cover the cost of placing the sign plus an additional 50 percent of the initial cost to defray future maintenance or replacement costs. The bill authorizes the Secretary to require a maintenance and renewal fee for such a sign every 10 years after the sign was first placed and to remove any sign for which the maintenance and renewal fee was charged but remained unpaid past 90 days of the renewal fee request.

The bill authorizes the Secretary to adopt rules and regulations to implement the provisions.

The bill names the section created by the bill the Kyle Thornburg and Kylie Jobe Believe Act.

Hazmat Endorsement Exemption for Custom Harvester Employees; SB 349

SB 349 exempts a person holding a commercial class A driver's license and acting within the scope of the person's employment as an employee of a custom harvester operation to operate a service vehicle transporting 1,000 gallons or less of diesel from obtaining a hazardous materials endorsement for that driver's license. The vehicle must be clearly marked with a "flammable" or "combustible" placard, as appropriate. The law had limited transportation of diesel fuel to 119 gallons in a tank without the driver having a hazardous materials endorsement.

Enforcement of Turnpike Toll Payments; SB 373

SB 373 requires the registered owner of a vehicle driven on a project of the Kansas Turnpike Authority (KTA) to pay all tolls associated with that vehicle's use on any KTA project. The KTA may provide a notice of toll evasion to the registered owner, and that notice may include a toll-evasion civil penalty, administrative fee, and costs for each instance in which the registered owner has failed to pay a toll.

On and after January 1, 2018, the Director of the KTA (*i.e.*, the Secretary of Transportation) or the Director's designee is authorized to instruct the Division of Vehicles to require payment of any tolls due and owing to the county treasurer at the time of registration or renewal of registration, or otherwise to refuse to register or renew the registration of the vehicle until the amounts are paid to the satisfaction of the Director or the Director's designee, if the outstanding amount of tolls due and owing by the registered owner exceeds $100. The bill states an application for registration or renewal of registration for a vehicle shall not be accepted if the records of the Division of Vehicles show that after three attempts by the KTA to contact the registered owner, including at least one registered letter, the registered owner of the vehicle has unpaid tolls; the Director or the Director's designee has instructed the Division to refuse to accept the registration or renewal of registration; and payment to the country treasurer is not made at registration. The bill provides that 15.0 percent of the toll moneys collected by a county treasurer at registration or registration renewal will be retained by the county treasurer, with the remainder remitted to the KTA.

The bill allows the registered owner to contest any notice of toll evasion, including all tolls, penalties, fees, costs, and registration holds, to the KTA. The bill requires the KTA to investigate and provide to the owner, within 30 days, a violation order containing the findings of the investigation. The owner may pay the order or request an administrative hearing, within 15 days of receipt of the order; the hearing is to be conducted in accordance with the provisions of the Kansas Administrative Procedure Act, and the owner may appeal the administrative hearing order to the district court in accordance with the provisions of the Kansas Judicial Review Act.

The bill authorizes the KTA to adopt rules and regulations necessary to carry out the new provisions.

Sailboat Instruction and Safety; HB 2436

HB 2436 amends law relating to boater safety education for operation of a sailboat. State law requires any person born on or after January 1, 1989, to possess a certificate of completion of a boater safety course authorized by the Kansas Department of Wildlife, Parks and Tourism in order to operate a motorboat or sailboat on Kansas public waters without direct supervision, unless the person is 21 years of age or older. The bill exempts from the requirement to possess that certificate any individual operating a sailboat that does not have a motor and has an overall length of 16 feet, 7 inches or less, while that individual is participating in an instructor-led sailing class.

Alzheimer's Disease Awareness License Plates; Military Decals; Towing Ordinances; Sub. for HB 2473

Sub. for HB 2473 authorizes an Alzheimer's disease awareness license plate, authorizes those with additional types of distinctive military license plates to purchase decals indicating the owner has received certain military honors, removes a requirement certain notices be filed with the county clerk, and specifies certain requirements for city ordinances and county resolutions regarding towing apply only to ordinances or resolutions regarding towing from private property.

License plate. The bill authorizes an Alzheimer's disease awareness license plate as of January 1, 2017. The bill allows any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less to apply for the new plate after paying annual vehicle registration fees and a logo use royalty fee of between $25 and $100 to the Alzheimer's Association. Payments from the Alzheimer's Disease Awareness Royalty Fund will be made on a monthly basis to the appropriate designee of the Alzheimer's Association.

Decals. The bill expands eligibility to purchase decals indicating certain military honors to those with any type of distinctive license plate for which a person is required to submit proof of military service to the Director of Vehicles. Such decals have been available only to those with Purple Heart medal recipient and U.S. military and military veteran license plates. The decals indicate the person was a recipient of a Silver Star or Bronze Star medal or of a Combat Medical Badge, Combat Infantry Badge, Navy/Marine Corps Combat Action Ribbon, Army Distinguished Service Cross, Navy Cross, Air Force Cross, or Distinguished Flying Cross; the bill adds Combat Action Badge. Under continuing law, proof must be submitted to the Director of Vehicles that such honors were awarded to the person requesting the decal. Changes to this section will be effective January 1, 2017.

Notices related to an abandoned vehicle. The bill repeals a requirement that a person providing wrecker or towing service file certain notices, publications, and affidavits with the county clerk prior to the sale at public auction of any abandoned or disabled motor vehicle. Under continuing law, these notices and publications are filed with the county treasurer when the vehicle is sold.

Towing ordinances. The bill amends law specifying the requirements for a city ordinance or county resolution on towing (to address maximum rates, access to personal property, and reporting the location to law enforcement) to state the requirements apply to any ordinance or resolution regarding towing of vehicles from private property.

Driver's Licenses; HB 2522

HB 2522 amends law relating to driver's licenses to do the following:

- Restrict a class M license of an applicant who passes a driving examination administered by the Division of Vehicles (Division) on a three-wheeled motorcycle, which is not an autocycle, to the operation of a registered three-wheeled motorcycle. An applicant for a class M license who passes a driving examination administered by the Division on a two-wheeled motorcycle, under continuing law, may operate any registered two-wheeled or three-wheeled motorcycle. This provision of the bill will take effect on January 1, 2017;

- Authorize a laser-engraved photograph to be placed on a Kansas driver's license, instruction permit, or nondriver identification card. The bill retains the option for a digital image in color. The bill also specifies the image be displayed on the front of the driver's license or nondriver identification card;

- Authorize electronic online renewal of a driver's license if permitted by the Director of Vehicles or the Director's designee. Electronic online renewal will not be allowed if the license previously had been renewed through an electronic online application in the immediately preceding driver's license period or if the person is younger than 30 days from turning 21, 65 or older, a registered offender under the Kansas Offender Registration Act, or licensed only for the period of time the holder is authorized to be present in the United States. The bill allows the Division to rely on the Division's most recent color digital image and signature image for the class C or M driver's license if the Division has the information on file. The bill authorizes the Secretary of Revenue to adopt and administer rules and regulations to implement a program to permit an electronic online renewal of a driver's license;

- Reflect changes made in 2012 that extended temporary registration permits for vehicles from 30 days to 60 days; and

- Add a $40 nonrefundable fee to accompany an application for a license to operate a motorized bicycle from a person who has had driving privileges suspended. Under continuing law, such a license is available only if the violation leading to the suspension was for a violation other than driving a commercial vehicle under

the influence of alcohol or drugs (DUI) or a second or subsequent DUI violation in any vehicle. Also under continuing law, the applicant must have completed a mandatory period of suspension for test refusal, test failure, or alcohol- or drug-related conviction, and the class C license to be issued clearly indicates it is valid only for the operation of motorized bicycles. Moneys raised by the fee will be deposited in the Division of Vehicles Operating Fund, to be applied to costs to implement restricted driving privileges.

Changes to Nonhighway Vehicles, Travel Trailers, and Salvage Vehicles; HB 2563

HB 2563 amends the definition of "nonhighway vehicle" to include any travel trailer that cannot be registered because it is not manufactured for the purpose of using the travel trailer on state highways and is not provided with the equipment for use on highways. The bill also amends the definition of "salvage vehicle" to include a travel trailer that cannot be registered because it has been wrecked or damaged to the extent it cannot meet safety requirements for operation on the highways. The bill also adds travel trailers to the definitions of "salvage title" and "rebuilt salvage title."

The bill adds "travel trailer" to a requirement the owner of a vehicle meeting the definition of a salvage vehicle apply for a salvage title before ownership is transferred. The bill similarly amends provisions requiring notification from an insurance company to the owner of a travel trailer meeting the definition of a salvage vehicle and provisions requiring the lessor or owner of a travel trailer meeting the definition of a salvage vehicle to apply for a salvage title within 60 days after notification or acquiring ownership.

Highway Designations; Allow Speed Limit Increase on Certain Highways; HB 2610

HB 2610 designates portions of highways to honor several Kansans and allows the Secretary of Transportation (Secretary) to increase speed limits on certain rural highways.

Highway designations. The bill designates these interchanges and portions of highway:

- The junction of I-70 and Commerce Parkway in Ellis County, on the eastern edge of Hays, as the Chief Warrant Officer 5 David Carter Fallen Veterans Memorial Interchange, to honor a pilot who died in Afghanistan in 2011 when his helicopter was shot down;

- US-400 in Labette County, between Queens Road and Udall Road near Parsons, as the John Troy, Pete Hughes, and Earl Seifert Highway, to honor gentlemen who were instrumental in the effort to have US-160 redesignated as US-400;

- The junction of I-235 and Central Avenue in Sedgwick County, as the Captain Chris Norgren Memorial Interchange, to honor a pilot who died in Nepal while delivering relief supplies in 2015; and

- K-148 from the intersection with 23rd Road in Washington County north to the Nebraska state line, as the SGT Lavern W Tegtmeier Memorial Highway, to honor the first soldier from Washington County to die in the Vietnam War, in 1968.

The bill requires the Secretary to place signs in the highway right-of-way at proper intervals to indicate the designations, after sufficient moneys are received from gifts and donations to reimburse the Secretary for the cost of placing such signs and an additional 50.0 percent of the initial cost to defray future maintenance or replacement costs of such signs.

Speed limits. The bill authorizes the Secretary to increase the speed limit on certain highways outside of an urban district by 5 miles per hour (mph). The highways on which speed limits could be increased from 65 mph to 70 mph are those that are not separated multilane highways (current speed limit of 75 mph) or any county or township highway (current speed limit of 55 mph). The bill requires the Secretary to consider, before increasing any such speed limit, the effects of certain violations of maximum speed limits not being construed as moving traffic violations or considered for liability insurance.

VETERANS AND MILITARY

Reinstatement of Eligibility for Resident Tuition; HB 2567

HB 2567 reinstates eligibility for resident tuition rates at postsecondary institutions previously granted by the Legislature to certain military veterans and their families. This eligibility was inadvertently eliminated in 2015 HB 2154, legislation that brought Kansas into compliance with the federal Choice Act.

The explicit criteria in the bill provide resident tuition to those veterans and individuals who were inadvertently removed from coverage by 2015 HB 2154. Specifically, the veteran must have been permanently stationed in Kansas during service in the armed forces or have established residency in Kansas prior to service in the armed forces. In addition, the veteran or the veteran's spouse or dependent must live in Kansas at the time of enrollment.

The bill also provides reimbursement to any person enrolled in a Kansas postsecondary educational institution in the 2015-2016 school year who would have been entitled to resident tuition and fee rates if the eligibility criteria in this bill had been in effect during the 2015-2016 school year. The reimbursement is equal to the difference between any tuition and fee rates the person paid and the resident tuition and fee rates.

Nongame and Endangered Species Act; Senate Sub. for HB 2156

Senate Sub. for HB 2156 makes several changes to the Nongame and Endangered Species Act, which are detailed below.

Special Permit Exceptions

In continuing law, a special permit is required for any person subject to the jurisdiction of Kansas to act in a manner contrary to any rules and regulations adopted by the Secretary of Wildlife, Parks and Tourism (Secretary) which pertain to endangered or threatened species of wildlife included in the Kansas Threatened and Endangered Species List.

The bill creates three exceptions to this requirement:

- Normal farming and ranching practices, including government cost-shared agriculture land treatment measures, unless a permit is required by another state or federal agency or the practices involve an intentional taking of a threatened or endangered species, as defined in law;

- Development of residential and commercial property on privately owned property financed with private, non-public funds, unless a permit is required by another state or federal agency or the development involves an intentional taking of a threatened or endangered species, as defined in law; and

- Activities for which a person has obtained a scientific, educational, or exhibition permit.

The bill also declares that for purposes of this section, a permit required by another state or federal agency shall not include a certification or registration.

Recovery Plans

The bill requires on and after July 1, 2016, for all new species listed as endangered or threatened by the Secretary, recovery plans for the species be completed within four years of the species being listed. If the recovery plan is not completed within four years, no permit will be required for activities that would otherwise require a permit until the recovery plan is complete. This provision of the bill will not apply to any endangered or threatened species listed under the federal Endangered Species Act of 1973.

The Secretary is required to submit an annual report on all species listed as endangered or threatened, as of June 30, 2016, to the Senate Committee on Natural Resources and the House Committee on Agriculture and Natural Resources. This report shall include:

- The status of any species with a completed recovery plan;

- The status of species with a recovery plan currently in process, but not yet complete; and

- Future goals for completing recovery plans for any listed species that does not yet have a recovery plan.

In addition, the Secretary is required to publish and maintain each developed and implemented recovery plan on the Kansas Department of Wildlife, Parks and Tourism website.

Constitutional Right to Hunt; HCR 5008

HCR 5008 proposes a state constitutional amendment for consideration at the next general election, in November 2016. That amendment, if approved by a majority of Kansas voters, would establish a constitutional right to hunt, fish, and trap wildlife in the state.

The amendment would add a new section to the Bill of Rights in the *Kansas Constitution* to create the constitutional right of the public to hunt, fish, and trap wildlife. The amendment would specify the people have the right to hunt, fish, and trap by traditional methods, subject to reasonable laws and regulations that promote wildlife conservation and management and that preserve the future of hunting and fishing. The amendment also would specify that hunting and fishing shall be the preferred means for managing and controlling wildlife, and the amendment would not be construed to modify any provision of law relating to trespass, property rights, or water resources.

WORKERS COMPENSATION

Worker Compensation Administration; Child Support Enforcement; HB 2617

HB 2617 grants the Director of Workers Compensation the option to contract for the Medical Administrator position established by continuing law rather than appoint one. The bill allows workers compensation claims to be filed electronically, pursuant to administrative rules and regulations implemented by the Director. Upon implementation of an electronic filing system, if a filing deadline fell on a weekend or legal holiday, the bill extends the deadline to the next accessible day. The electronic filing system satisfies the signature requirements of documents filed.

The bill also broadens an exception to the open records exemptions, allowing federal or state governmental agencies access to medical records and accident reports for the purpose of child support enforcement, provided the disclosure would not be open for public inspection. Under prior law, governmental agencies had access to this information solely for fraud and abuse investigations.

APPROPRIATION BILLS

House Sub. for SB 161, House Sub. for SB 249, and Senate Sub. for HB 2655 include funding for claims against the state; Fiscal Year (FY) 2016, FY 2017, and FY 2018 expenditures for most state agencies; and FY 2016 and FY 2017 capital improvements for selected state agencies.

TECHNICAL BILLS

Senate Sub. for HB 2285 This bill reconciles amendments to statutes that were amended more than once during the prior (2015) legislative session. The bill combines non-contradictory amendments from enacted legislation to produce one version of the statute.

VETOED BILLS

SB 250

This bill would have barred any agency from expending funds to demolish the Docking State Office Building or to reconstruct, relocate, or renovate the power plant or Energy Service Center. The bill would have further barred any agency from selling, leasing, transferring, or otherwise conveying the land on which Docking is located for FY 2016 and FY 2017.

The bill also would have removed the requirement the Secretary of Administration provide a monthly progress report to the Joint Committee on State Building Construction regarding progress on existing projects.

SB 338

This bill would have revised provisions of law pertaining to the authority of cities and nonprofit organizations to petition the district court to possess abandoned property temporarily for rehabilitation purposes.

These revisions would have been sunset on July 1, 2020.

House Sub. for SB 161 (Appropriations Bill)

This bill includes funding for FY 2016, FY 2017, and FY 2018 supplemental expenditures for most state agencies and FY 2016 and FY 2017 capital improvements for selected state agencies. The bill contains the following line item vetoes.

Dept. of Commerce

(Line item) **STAR Bonds** – Sections 35(g) and 36(f) would have barred any consideration or approval of STAR Bond projects in Wyandotte County until FY 2018. The sections also included a provision that would have been repealed if any legislation passed that contained certain STAR Bond reforms.

Dept. for Aging and Disability Services

(Line item) **Mental Health Screenings** – Section 48(o) would have restored a discontinued policy to require mental health screenings prior to admission to inpatient psychiatric beds at community hospitals and residential treatment facilities.

House Sub. for SB 249 (Omnibus Appropriations)

This bill includes omnibus funding for FY 2016, FY 2017, and FY 2018 expenditures for most state agencies. The bill contains the following line item vetoes.

Dept. for Aging and Disability Services

(Line item) **Mental Health Screenings** – Section 20(b) would have restored a discontinued policy to require mental health screenings prior to admission to inpatient psychiatric beds at community hospitals and residential treatment facilities.

Kansas Public Employees Retirement System	(Line item) **Transfer of Tobacco Litigation Settlement Revenue** – Section 50(c) would have required repayment for any Kansas Public Employees Retirement System (KPERS) that was lapsed or transferred in FY 2016 with interest of 8.0 percent per annum using the amount received from the master tobacco settlement litigation revenue in excess of expenditures or transfers that have been made from the Key Endowment for Youth Fund as provided by law in FY 2017.

BILLS VETOED BY THE GOVERNOR, BUT OVERRIDDEN

House Sub. for SB 280 This bill makes a number of changes in law relating generally to property taxation. Certain provisions include a clarification of law relating to State Board of Tax Appeals decisions (providing that subsequent appeals to District Court will be *de novo* trials); a new exemption for property owned and operated as an airport by a non-profit healthcare foundation; and an increase of five percent in the interest rate for delinquent property taxes.

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Legislative Research Department

July 2016

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INTRODUCTION

This publication includes a summary of the legislation enacted by the 2016 Legislature during the Special Session. The Special Session commenced on June 23, and was adjourned on June 24, 2016.

During the 2016 Special Session, six bills were introduced: three bills in the Senate and three bills in the House. One of these bills became law (a House bill). None of these bills will carry over to the regular 2017 Session of the Legislature.

This publication does not include a summary of any legislation associated with the regular 2016 Session. That legislation has been summarized in a separate publication.

EDUCATION

School Finance; Sub. for HB 2001

Sub. for HB 2001 amends statutes relating to school finance. Specifically, the bill alters the statutory formula for providing Supplemental General State Aid for FY 2017 and amends laws related to virtual school state aid, the Extraordinary Need Fund, hold-harmless funding under 2016 Senate Sub. for HB 2655, and federal funding for certain pre-kindergarten programs. The bill also amends law related to the sale of the Kansas Bioscience Authority (KBA).

Appropriations

The bill appropriates $99,408,027 for Supplemental General State Aid. The bill also changes the appropriation from the State General Fund to the School District Extraordinary Need Fund to $8.0 million and transfers $5.0 million from the State Highway Fund to the Extraordinary Need Fund. The bill lapses $61,792,947 of School District Equalization State Aid and lapses $2.8 million from the block grant to school districts.

The bill lapses $4.1 million of the appropriation for the Children's Initiatives Fund and transfers $4.1 million from the Children's Initiatives Fund to the State General Fund. It also directs the Department for Children and Families to expend $4.1 million from the Temporary Assistance for Needy Families Fund for the purpose of providing additional funding for programs provided by the Kansas State Department of Education.

Supplemental General State Aid

The bill reinstates the Supplemental General State Aid formula that was in effect prior to the enactment of 2015 House Sub. for SB 7.

Virtual School State Aid

The bill changes the amount school districts receive for each full-time virtual school student for FY 2017 from $5,600 to $5,000.

Extraordinary Need Fund

The bill allows the Kansas State Department of Education to accept applications to the Extraordinary Need Fund and approve them, if the proceeds of the KBA sale or merger are at least $38.0 million. However, no moneys may be expended from that fund in FY 2017 until the sale or merger of the KBA is complete. If the proceeds of the sale or merger of the KBA are less than $38.0 million, then the amount of money appropriated to the Extraordinary Need Fund is reduced by the amount of the shortfall.

Sale of the KBA

The bill provides that any proceeds of the sale of the KBA in excess of $25.0 million but less than $38.0 million are deposited in the State General Fund.

Other Provisions

The bill eliminates the School District Equalization State Aid provisions created in 2016 Senate Sub. for HB 2655. The bill also includes a severability clause.