



K-ACTE 2021 LEGISLATIVE UPDATE

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Table of Contents

Promise Scholarship; HB 2064	3
<i>Definitions.....</i>	3
<i>Administration.....</i>	4
<i>Rules and Regulations.....</i>	4
<i>Eligible Programs</i>	4
<i>Other Responsibilities</i>	5
<i>Designation of an Additional Eligible Program by the Institution.....</i>	5
<i>Appropriations</i>	5
<i>Eligibility for a Scholarship</i>	6
<i>Scholarship Agreement, Repayment for Failure to Complete, and Completion of the Program</i>	7
<i>Scholarship Agreement.....</i>	7
<i>Repayment.....</i>	8
<i>Kansas Promise Scholarship Program Fund.....</i>	8
Education Appropriations and Program Changes; HB 2134.....	8
<i>Appropriations for FY 2021, FY 2022, and FY 2023—KSDE</i>	9
<i>Foster Care Report Card (New Section 4)</i>	11
<i>At-risk Services (Section 5).....</i>	12
<i>Remote Learning and Waivers (New Sections 6 and 9)</i>	13
<i>Kansas Challenge to Secondary School Students Act (Kansas Challenge Act) (Sections 7, 10-14, and 24).....</i>	15
<i>Kansas Challenge Act Reporting Requirements (New Section 7).....</i>	15
<i>Citation and Purpose (Sections 10-11).....</i>	16
<i>Student Eligibility and Other Definitions (Section 12).....</i>	16
<i>Authority of School Districts and Notification Requirements (Sections 13-14).....</i>	16
<i>Using Needs Assessment in the District Budget Process (Section 8)</i>	17
<i>Tax Credit for Low Income Students Scholarship Program (Sections 15, 16, and 22)</i>	18
<i>Student Eligibility for the Tax Credit for Low Income Students Scholarship Program (Section 15).....</i>	18
<i>Publication of Accountability Reports (Section 16).....</i>	19
<i>Accountability Reports (Section 22).....</i>	19
<i>Kansas School Finance (Sections 17-19)</i>	19
<i>Update to Citation of Act (Section 17)</i>	19
<i>At-risk and High-density At-risk Weighting and Expenditures (Sections 19-21).....</i>	19

<i>At-risk Educational Programs and Services</i>	20
<i>Expenditure of High Density At-risk Funding on Ineligible Activities</i>	21
<i>ACT, Pre-ACT, and WorkKeys Assessments (Section 23)</i>	22
<i>Notification</i>	22
<i>Participation</i>	22
<i>Kansas Challenge Act Tuition Waiver for Foster Care Students (Section 24)</i>	22
<i>Kansas State Department of Education Degree Information; HB 2085</i>	22
<i>Income Tax Modifications; Taxpayer Protection Act; Income Tax Credits; Rural Opportunity Zones; SB 47</i>	23
<i>Kansas Taxpayer Protection Act</i>	23
<i>Tax Credits for Contributions to the Eisenhower Foundation and the Friends of Cedar Crest Association</i>	25
<i>Single City Port Authority Tax Credit</i>	25
<i>Fraudulent Compensation</i>	25
<i>Income Tax Returns</i>	26
<i>Rural Opportunity Zones Modifications</i>	26
<i>Effective Date</i>	27
<i>Property Taxation: Senate Sub. for HB 2313</i>	27
<i>Senate Sub. for HB 2313</i>	27
<i>Disaster Emergency Declarations Property Tax Reimbursements</i>	27
<i>Taxation Property Tax</i>	27
<i>Statewide School Finance Tax Levy</i>	28
<i>National Guard Motor Vehicle Property Tax Exemption</i>	28
<i>Board of Tax Appeals Pro Tempore Membership</i>	28
<i>Legislative Division of Post Audit Study</i>	28

Promise Scholarship; [HB 2064](#)

HB 2064 establishes the Kansas Promise Scholarship Act (Act), which provides scholarships for students to attend an “eligible postsecondary educational institution.” The Act makes the State Board of Regents (Board) the administering agent.

Definitions

- The bill defines “eligible postsecondary institution” (institution) to mean one of the following:
 - Any community college or technical college established by state statute;
 - The Washburn Institute of Technology; or
 - Any independent, not-for-profit, postsecondary institution whose main campus or principal place of operation is in Kansas that offers a program eligible under the Act, maintains an open enrollment, and is accredited by a nationally recognized accrediting agency for higher education.

The bill defines a “promise eligible program” (eligible program) to mean any two-year associate degree program, career and technical education certificate, or stand-alone program identified by the Board, or an eligible program as designated by the institution pursuant to Section 3 of this bill.

The bill also defines “military servicemember” as it is defined in law regarding expedited occupational or professional licensing for servicemembers and “part-time student” as a student enrolled for at least six credit hours in a semester who is not enrolled as a full-time student.

Administration

Rules and Regulations

The bill requires the Board to adopt rules and regulations on or before March 1, 2022, pertaining to:

- Application deadlines for the scholarship;
- The appeals process for denial or revocation of a scholarship;
- Guidelines for the transferability of a graduated student's credits from an institution to a state educational institution or a municipal university;
- The terms, conditions, and requirements of the scholarship agreement between the Board and the student;
- Procedures for requesting and approving certain absences from an institution;
- Criteria for determining whether a student has fulfilled the employment and repayment requirements specified in the bill, including methods of repayment; and
- Criteria for determining whether special circumstances or good cause are present that prevent a student from completing the scholarship requirements.

Eligible Programs

The bill requires the Board to identify the eligible programs that are in the following fields of study:

- Information technology and security;
- Physical and mental health care;
- Early childhood education and development;
- Advanced manufacturing and building trades; or
- Those designated by the institution according to Section 3 of the bill.

Other Responsibilities

The bill also requires the Board to:

- Work with community partners to publicize the Promise Scholarship Program (Program); Disburse funds to each institution;
- Request information from each institution;
- Ensure students fulfill the scholarship agreement; and
- Starting in January 2022, annually evaluate the Program and report to the standing education committees of the House of Representatives and the Senate.

Designation of an Additional Eligible Program by the Institution

The bill allows an institution to designate one additional eligible program outside of the specified fields if it is a two-year associate degree program, career and technical education certificate program, or stand-alone program that corresponds to a high-wage, high-demand, or critical-need field. The bill further requires such institution have no less than one existing eligible program before the institution designates an additional eligible program. Once adopted, the institution must maintain the newly designated eligible program for no less than three years.

Appropriations

The bill requires the Program be subject to appropriations that will not exceed \$10.0 million annually for FY 2022 and FY 2023. Beginning in FY 2024, all subsequent appropriations will not exceed 150.0 percent of the expenditures in the preceding year. The amount of a student's scholarship for each semester is the aggregate of the amount of tuition and related fees or costs of the institution minus the aggregate amount of all other aid awarded to the student. The bill specifies aid includes any financial assistance that would not require repayment.

If a student is enrolled in an eligible program offered by a four-year postsecondary educational institution, the bill requires that the aggregate amount of tuition, fees, books, and

materials for such program be considered the average cost of such program when offered by an institution that is not a four-year institution.

The bill prioritizes scholarships for eligible students whose family household incomes are less than or equal to the following amounts:

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

Eligible students whose family household income exceeds these limits are eligible for scholarships under the Act only if scholarship money remains after awarding all other prioritized scholarships.

Eligibility for a Scholarship

The bill requires a student to meet the following criteria to be considered eligible for a scholarship:

- Be a resident of Kansas; and
- In the past 12 months, have:
 - Graduated from an accredited Kansas public or private secondary school;
 - Completed the requirements for graduation from a non-accredited private secondary school, per KSA 72-4345; or
- Attended an accredited Kansas public or private secondary school or non-accredited private school, per KSA 72-4345, and obtained a high school equivalency certificate;
- Be 21 years of age or older while having been a resident of Kansas for a minimum of three consecutive years; or
- Be a dependent child of a military servicemember permanently stationed in another state and have graduated from any out-of-state secondary school or obtained a high school equivalency certificate within the preceding 12 months;
- Complete a scholarship application as established by the Board;
- Enter into a scholarship agreement with the Board;

- Complete the Free Application for Federal Student Aid; and
- Enroll in an eligible program at an institution.

The bill further requires the student maintain satisfactory academic progress and satisfy the requirements of the scholarship agreement.

The bill does not prohibit a student enrolled in high school who received a postsecondary course credit from qualifying for the scholarship.

Scholarship Agreement, Repayment for Failure to Complete, and Completion of the Program

Scholarship Agreement

The bill requires the student to enter into a scholarship agreement with the institution to receive a scholarship. The scholarship agreement must contain the following criteria for eligible students:

- Enroll as a full- or part-time student in an eligible program at an institution and complete the Program within 30 months of the date upon which the first scholarship was awarded;
- Within six months of completing the eligible program:
 - Reside and work in Kansas for a minimum of two consecutive years; or
 - Enroll as a full- or part-time student at any public or not-for-profit postsecondary educational institution whose main campus or principal place of operation is in Kansas;
- Maintain records and make reports as required by the Board to document satisfaction of the requirements in this bill; and
- Repay the amount of scholarship received, upon failure to satisfy the requirements of the scholarship agreement.

Repayment

Failure to satisfy the requirements of a scholarship agreement will result in the scholarship recipient being liable for repayment to the Board in the amount of the awarded scholarship plus accrued interest. The interest is to be set at the rate of the Federal PLUS Program at the time the scholarship was awarded. Moneys collected in this manner are to be remitted to the State Treasurer to be put into the Kansas Promise Scholarship Program Fund. The bill allows installment payments to be made in accordance with Board rules and regulations, with payments to begin six months after the cause for the failure to satisfy the requirements as determined by the Board.

The Board is authorized to transfer any repayment account to a loan servicer or collection agency.

The Board may postpone the requirements for good cause.

Kansas Promise Scholarship Program Fund

The bill establishes the Kansas Promise Scholarship Program Fund to be administered by the Board.

Education Appropriations and Program Changes; [HB 2134](#)

HB 2134 makes appropriations for the Kansas State Department of Education (KSDE) for FY 2021, FY 2022, and FY 2023; limits remote learning hours based on emergency circumstances of the individual student and school district; provides a different calculation for school finance related to remote learning; directs school districts to use needs assessment to ensure improvement in student academic achievement; amends the Kansas Challenge to Secondary School Students Act as it relates to dual and concurrent enrollment; amends law regarding the providing of the ACT, pre-ACT, and WorkKeys assessment to Kansas students; expands the Tax Credit for Low Income Students Scholarship Program; and directs KSDE to

collaborate with the Department for Children and Families (DCF) to create a Kansas foster care children annual academic report card.

The bill takes effect upon publication in the Kansas Register except as noted.

Appropriations for FY 2021, FY 2022, and FY 2023—KSDE

FY 2021 (Section 1)

The bill modifies the State General Fund (SGF) appropriation, in FY 2021, for KSDE.

The bill authorizes the following moneys appropriated from the SGF to be lapsed in FY 2021:

- \$2.0 million for the Kansas Public Employees Retirement System (KPERs) non- unified school districts (USDs);
- \$6.9 million for the KPERs-USDs;
- \$1.2 million for the Mental Health Intervention Team (MHIT) Pilot Program;
- Any unencumbered balance in the Education Super Highway Account;
- \$782,064 for the School District Juvenile Detention Facilities and Flint Hills Job Corps Center Grants;
- \$140,755 for the Governor’s Teaching Excellence Scholarships and Awards; and
- \$18.9 million for State Foundation Aid.

FY 2022 (Section 2)

The bill appropriates \$2.8 billion, including \$1.2 billion SGF, for FY 2022 for KSDE.

Major SGF appropriations include:

- \$14.1 million for operating expenditures;
- \$41.9 million for KPERs-non-USDs;
- \$538.0 million for KPERs-USDs;
- \$25.8 million for KPERs layering payments;
- \$78.5 million for Capital Outlay State Aid;

- \$2.8 million for the ACT and WorkKeys Assessments Program;
- \$7.5 million for the MHIT Pilot Program;
- \$5.1 million for the School District Juvenile Detention Facilities and Flint Hills Job Corps Center Grants;
- \$512.9 million for Special Education Services Aid; and
- \$2.4 million for Supplemental State Aid.

The bill also appropriates funding from several no limit special revenue funds, including federal funds and fee funds, including \$32.7 million from the Children's Initiatives Fund and \$41.1 million from the Expanded Lottery Act Revenues Fund for KPERS-non-USDs.

The bill directs KSDE to expend \$80,000 for the Center for READING project manager grant for FY 2022, all from federal funds received under COVID-19-related legislation. If federal funds cannot be used for the grant, then SGF moneys must be used. The bill requires such project manager or managers to assist in the development and support of a Science of Reading curricula for State Board of Regents institutions based on the Knowledge and Practice Standards set by KSDE. The Center for READING will also develop and support resources—including a textbook, professional development, and a list of qualified trainers—for school districts.

The bill provides for several transfers and allows the Commissioner of Education to transfer any part of an appropriation from the SGF to another SGF item of appropriation in KSDE.

The bill lapses \$3.3 million of the \$2.4 billion appropriated in SB 66, the 2020 appropriations bill, from the SGF for State Foundation Aid for FY 2022. SB 66 (2020) also appropriated \$521.2 million, all SGF, for Supplemental State Aid. The lapse of SGF for State Foundation Aid and added funding from Supplemental State Aid are due to the adoption of the full 2020 Education Consensus Estimates. The bill directs KSDE to expend \$5.0 million for School Safety and Security Grants, \$3.9 million for expanding the MHIT Pilot Program, and

\$100,000 for the Communities in Schools program, all from federal funds received under federal COVID-19-related legislation, unless the program would not qualify for the federal funds.

The bill further states the Legislature’s recommendation that school districts provide additional compensation, of up to \$500, to classroom teachers, paraprofessionals, and other school district hourly employees from federal moneys received under federal COVID-19-related legislation for extra duties performed during the pandemic. The bill defines “classroom teacher.”

FY 2023 (Section 3)

The bill appropriates from the SGF for FY 2023 \$2.5 billion for State Foundation Aid and \$534.1 million for Supplemental State Aid. The bill also authorizes expenditures from the State School District Finance Fund and the Mineral Production Education Fund.

Foster Care Report Card (New Section 4)

The bill requires KSDE and DCF collaborate to create an annual foster care report card, which will be submitted to the House and Senate standing committees on education by January 15 each year. The report must include the following information regarding children in foster care:

- Graduation rate;
- State standardized assessment scores;
- Total and disaggregated number enrolled in a school district or accredited nonpublic school;
- De-identified disaggregated race and ethnic data for specific data sets;
- Additional data elements deemed appropriate by the KSDE and DCF; and

Numbers and percentages of students in foster care who:

- Were promoted to the next grade level;
- Were suspended (including duration);
- Were expelled;

- Are meeting academic standards;
- Are enrolled in a preschool-aged at-risk program, preschool pilot program, or early childhood special education program; and
- Participated in the MHIT Pilot Program or similar mental health program.

The bill defines “school” as any school within a school district or a nonpublic school accredited by the State and “student in foster care” as an individual in the custody of DCF while attending school at any point during a school year in which the report card is required to be completed.

At-risk Services (Section 5)

The bill defines students as at-risk and eligible for programs and services, as permitted under Sections 20-22 of the bill, if the student meets one or more of the following criteria:

Is not working at academic grade level;

Is not meeting requirements for promotion to the next grade level or is failing subjects or courses of study;

Is not meeting requirements for graduation from high school or has the potential to drop out of school;

- Has insufficient mastery of skills or is not meeting state standards;
- Has been retained;
- Has a high rate of absenteeism;
- Has repeated suspensions or expulsions from school;
- Is homeless or migrant;
- Is identified as an English language learner;
- Has social-emotional needs causing the student to be unsuccessful in school; or
- Is identified as a student with dyslexia or having characteristics of dyslexia.

This section takes effect on July 1, 2021.

Remote Learning and Waivers (New Sections 6 and 9)

Remote Learning and Enrollment (New Section 6)

The bill provides that no school district, beginning in school year 2022, shall provide or offer more than 40 hours of remote learning to any student enrolled in the school district. The bill allows boards of education to authorize individual students to temporarily attend school through remote learning in excess of the 40-hour limitation when the student cannot reasonably attend in person due to illness, injury, or other extraordinary circumstance. The bill also allows the Kansas State Board of Education (State Board) to authorize a school district to provide remote learning in excess of 40 hours in the following circumstances:

- Upon the school district’s application certifying that due to disaster, conditions resulting from widespread or severe property damage caused by the disaster, or other condition restricting the operation of the school for an inordinate period of time and a determination by the State Board that the school district cannot comply with such restriction without conducting up to 240 school term hours via remote learning; or
- Upon the school district’s application for a waiver that certifies widespread or severe property damage restricting the operation of the school and a determination by the State Board that the school district cannot comply with this restriction without conducting remote learning beyond 240 school term hours.

The bill amends law to define any student who attends school through remote learning in excess of the 240 school-term hour limitation as a “remote learning student.”

The bill requires each school district that offers remote learning, on or before June 30 of each school year, to determine the remote enrollment of the district based on the number of remotely enrolled students, and the clerk or superintendent of that school district to certify to the State Board a report showing remote enrollment by the grades of the schools in that school district.

The bill requires the State Board to determine the number of remotely enrolled students by school district, provide remote enrollment state aid of \$5,000 per remotely enrolled student, and notify each school district of the amount of remote enrollment state aid. The bill provides that remote enrollment state aid for students does not include students enrolled part-time in remote learning during the school day. The bill also requires the State Board to require each such school district return any payment over \$5,000 (an overpayment) in the current school year for such students, or to deduct the excess amounts over \$5,000 to be paid to the school district from future payments to be made to the school district.

The bill specifies that a remotely enrolled student is not included in the adjusted enrollment of the school district for the current school year.

The bill requires each school district that determines remote enrollment for the purposes of this section to submit any requested documentation or information to the State Board.

The bill provides, if a school district is granted a waiver due to disaster by the State Board, the remote learning hour limitations would not apply and the school district shall not be required to determine remote enrollment and the State Board shall not be required to adjust the school district's funding.

This section takes effect on July 1, 2021.

Waiver (Section 9)

Continuing law allows the State Board to waive requirements for the duration of a school term in any school year upon the following criteria being met:

- Certification by a board of education that conditions restricting the operation of public schools for an inordinate period of time exist due to a disaster; and
- Determination by the State Board that the school district cannot reasonably adjust its schedule to comply with the law.

The bill removes “or other conditions restricting the operation of public schools” from the certification criterion and amends the definition of “disaster” as the occurrence of any widespread or severe damage, injury, or loss of life or property resulting from natural or man-made causes, removing references to declarations and orders and adding an epidemic to the definition.

Kansas Challenge to Secondary School Students Act (Kansas Challenge Act) (Sections 7, 10-14, and 24)

Kansas Challenge Act Reporting Requirements (New Section 7)

The bill requires each postsecondary institution that accepts students for concurrent or dual enrollment to submit a report to the State Board of Regents. The report shall include, but not be limited to, the following:

- The number of students from each school district enrolled in the postsecondary institution, including the number of students in foster care;
- The number of students who successfully complete the courses in which they are enrolled;
- The tuition rate charged for concurrently or dually enrolled students compared to the tuition rate charged regularly enrolled students; and
- The portion of costs for concurrent and dual enrollment being paid by school districts.

The State Board of Regents is required to compile and present a summary report to the House and Senate standing committees on education on or before February 15 of each year.

This section takes effect on July 1, 2021.

Citation and Purpose (Sections 10-11)

The bill states the purpose of the Kansas Challenge Act is to provide the means to school districts to encourage secondary students take advantage of all educational opportunities in Kansas.

Student Eligibility and Other Definitions (Section 12)

The bill amends the definition of “student” in the Kansas Challenge Act to require a student to have an individualized plan of study or an individualized education program. The new definition of student is a person:

- Enrolled in grades 10, 11, or 12 in a school district, or a gifted student enrolled in grades 9, 10, 11, or 12;
- With an individualized plan of study or an individualized education program;
- Who has demonstrated the ability to benefit from participation in the regular curricula of a postsecondary institution;
- Who has been authorized by their principal to apply for enrollment at a postsecondary institution; and
- Who is acceptable or has been accepted for enrollment at a postsecondary educational institution.

The bill amends the definition of “accredited independent institution” in the Kansas Challenge Act to include only not-for-profit postsecondary institutions and to specify the institution must be accredited by a nationally recognized accrediting agency.

Authority of School Districts and Notification Requirements (Sections 13-14)

The bill allows school districts, at the discretion of the local boards of education, to pay for tuition, fees, books, materials, and equipment for any high school student who is concurrently or dually enrolled at a postsecondary educational institution (postsecondary institution). The bill authorizes a local board of education to pay all or a portion of those costs directly to the postsecondary institution by the school district. Students or their families are required to pay any portion of the costs not covered by the school district. School districts are also authorized to provide transportation for concurrently or dually enrolled students.

The bill requires postsecondary institutions to notify a student or a student's parent or guardian if the course in which a student is enrolled is not eligible for a systemwide transfer of college credit to another in-state postsecondary educational institution, as determined by the State Board of Regents.

The bill requires school districts to grant high school credit to concurrently or dually enrolled students who satisfactorily complete course work at a postsecondary institution.

The bill prohibits school districts from paying for technical education courses that are part of the Excel in Career Technical Education program (also known as 2012 SB 155 courses) administered by the State Board of Regents.

In order to remain eligible for participation, the bill requires students to remain in good standing at the postsecondary institution in which they are enrolled or show satisfactory progress as determined by their school district.

Using Needs Assessment in the District Budget Process (Section 8)

The bill amends law requiring the board of education of each school district to conduct an assessment of the educational needs of each school in the district and utilize the results when preparing the school district's budget. The bill requires the information obtained from the needs assessments to be used to ensure improvement in student academic performance. The bill also requires school district budgets to allocate sufficient moneys in a manner reasonably calculated to ensure all students achieve the "Rose capacities," which are codified in KSA 72-3218(c).

Tax Credit for Low Income Students Scholarship Program (Sections 15, 16, and 22)

The bill expands the Tax Credit for Low Income Students Scholarship Program by amending provisions relating to student eligibility requirements, school eligibility requirements, and reporting requirements.

*Student Eligibility for the Tax Credit for Low Income Students Scholarship Program
(Section 15)*

The bill amends the Tax Credit for Low Income Students Scholarship Program to expand student eligibility in two ways:

- The bill amends the definition of “eligible student” to include students who are eligible for free or reduced-priced meals under the National School Lunch Program. Current law limits eligibility to students who are eligible for free meals. Continuing law requires the student also reside in Kansas and be enrolled in a public school or eligible to enroll in a public school.
- The bill amends the definition of “public school” to be any school operated by a USD in Kansas. Current law limits eligibility to those students enrolled or eligible to be enrolled in the lowest 100 performing elementary schools, as identified by the State Board.

The bill limits student eligibility for first-time applicants to students enrolled in kindergarten through grade eight.

The bill clarifies that the definition of “eligible student” includes any student who has previously received a scholarship under the Tax Credit for Low Income Students Scholarship Program and has not graduated from high school or is not 21 years old.

Publication of Accountability Reports (Section 16)

The bill requires the websites of accredited nonpublic schools participating in the Tax Credit for Low Income Students Scholarship Program to include a prominent link to KSDE's website where the one-page accountability reports are published.

Accountability Reports (Section 22)

The bill requires KSDE to prepare one-page accountability reports for all accredited nonpublic schools in the state, in addition to public schools as in continuing law. The bill also requires KSDE to include accredited nonpublic schools in the longitudinal achievement report submitted to the Governor and Legislature each year.

Kansas School Finance (Sections 17-19)

Update to Citation of Act (Section 17)

The bill redefines the Kansas School Equity and Enhancement Act (KSEEA) to include Section 6 of the bill, which relates to the calculation of remote enrollment state aid.

At-risk and High-density At-risk Weighting and Expenditures (Sections 19-21)

The bill amends law regarding the at-risk and high-density weighting by removing the improvement requirements and providing that if a district does not spend the funds on best practices, then the district must repay such moneys to the district's At-risk Education Fund. The State Board must notify the House and Senate standing committees on education on or before January 15 each year of any school districts repaying the funds in this manner and the amounts each district repaid the preceding school year.

The bill extends the high-density at-risk weighting through June 30, 2024.

The bill states the purpose of the at-risk and high-density at-risk student weightings is to provide eligible students with evidence-based, at-risk programs and services (programs and services) in addition to regular instructional services.

The bill also requires the portion of State Foundation Aid attributable to the at-risk and high-density at-risk student weightings to be transferred by each district to the district's At-risk Education Fund.

At-risk Educational Programs and Services

The bill requires the State Board to require school districts to implement programs and services using the at-risk best practices identified in current law to assist eligible students in achieving educational outcome goals. The State Board must provide a list of approved programs and services to each district, and KSDE is required to publish the list on its website with a link prominently displayed on its homepage.

The bill amends eligible expenditures from a district's At-risk Education Fund to include only the following:

- At-risk and provisional at-risk programs (amended by the bill to include provisional at-risk programs);
- Personnel providing educational services in conjunction with such programs (continuing law);
- Support for instructional classroom personnel designed to provide training for evidence-based best practices for at-risk educational programs (added by the bill); or
- Services contracted for by the school district to provide at-risk and provisional at-risk educational programs (amended to include at-risk and provisional programs and removing a reference to best practices).

The bill defines an “at-risk educational program” as an at-risk program or service identified and approved by the State Board as an evidence-based best practice. A “provisional at-risk educational program” (provisional program) is defined as an evidence-based at-risk educational program or service identified or developed by a district as producing or likely to produce measurable success that has been submitted to the State Board for review.

The bill limits expenditures from a district’s At-risk Education Fund to those programs or services included on the list approved by the State Board unless the program is a provisional program.

A provisional program can only be funded for a maximum of three years unless approved by the State Board and included on the list of approved programs.

The bill also states the delivery of programs and services by a district may include, but is not limited to, the following:

- Extended school year;
- Before-school programs and services;
- After-school programs and services;
- Summer school; Extra support within a class;
- Tutorial assistance; and
- Class within a class.

Expenditure of High Density At-risk Funding on Ineligible Activities

If a district does not spend money on such best practices for three consecutive years, the bill makes the district ineligible to continue receiving the high-density at-risk weighting funding. Current law states if a district does not expend its high density at-risk weighting funds on best practices, it must show improvement within five years, or it will be disqualified from receiving the high-density at-risk student weighting in the succeeding school year.

ACT, Pre-ACT, and WorkKeys Assessments (Section 23)

Notification

The bill requires KSDE and each school district to annually publish on their websites the times, dates, and locations of all pre-ACT, ACT, and WorkKeys exams being offered in the state and information on how to register for them.

Participation

The bill clarifies that all participation in the pre-ACT, ACT, and WorkKeys examinations is optional and that nothing in the bill should be construed to require participation.

The bill also defines a “student” for this purpose as any person who is regularly enrolled in any public school or accredited private school.

Kansas Challenge Act Tuition Waiver for Foster Care Students (Section 24)

The bill expands the Kansas Foster Child Educational Assistance program to provide a tuition waiver for foster care students who are concurrently or dually enrolled in a postsecondary institution. In addition, school districts are authorized to pay for any costs that are not waived, including for fees, books, materials, and equipment.

The definition of “eligible foster child” is amended to add a student, as defined by provisions of this bill, who has been in the custody of the Secretary for Children and Families and in foster care placement at any time the child was enrolled in grades 9 through 12.

HB 2085 creates the Students' Right to Know Act, which requires the Kansas State Department of Education (KSDE) to ensure the distribution, electronic or otherwise, of certain information to all students in grades 7 through 12. Information to be distributed will include:

- The State Board of Regents degree prospectus information;
- The placement and salary report of the Kansas Training Information Program; and
- Any other information relevant to students' understanding of potential earnings as determined by the Department of Labor and each branch of the armed services of the U.S. military.

The bill also authorizes KSDE to enter into memorandums of understanding and other agreements with state agencies or other entities as needed to accomplish this task.

Income Tax Modifications; Taxpayer Protection Act; Income Tax Credits; Rural Opportunity Zones; [SB 47](#)

SB 47 creates and modifies law related to income tax.

Kansas Taxpayer Protection Act

The bill enacts the Kansas Taxpayer Protection Act (Act), requiring on and after January 1, 2022, paid tax return preparers to sign any income tax return prepared by or substantially prepared by the preparer and to include the preparer's federal preparer tax identification number on any such return. Any failure to do so subjects the preparer to a civil penalty of \$50 per return with a maximum of \$25,000 in civil penalties per preparer per year. Any civil penalties assessed could be appealed pursuant to the Kansas Administrative Procedure Act. Any penalties collected are to be deposited in the State General Fund.

The bill authorizes the Secretary of Revenue (Secretary) to enjoin any person from acting as a paid tax preparer by seeking a temporary or permanent order from a court of

competent jurisdiction enjoining such conduct. Under the bill, an injunction could be issued by a court if the preparer has:

- Prepared a return that understates the taxpayer's liability due to an "unreasonable position," as that term is defined in the Internal Revenue Code;
- Prepared a return that understates the taxpayer's liability due to "willful or reckless conduct," as that term is defined in the Internal Revenue Code;
- Failed to, when required, furnish a signed copy of the return including the preparer's federal preparer tax identification number, retain a copy of the return, or be diligent in determining eligibility for tax benefits;
- Negotiated a check issued to the taxpayer by the Kansas Department of Revenue without the permission of the taxpayer;
- Engaged in any conduct subject to any criminal penalty provided for in Chapter 79 of the Kansas Statutes Annotated [Taxation] or amendments thereto;
- Misrepresented the preparer's education, experience, or eligibility to practice tax preparation;
- Guaranteed the payment of any tax refund or the allowance of any tax credit; or
- Engaged in any other fraudulent or deceptive conduct that substantially interferes with proper administration of Kansas tax laws.

The bill allows the Secretary to seek the assistance of the Attorney General or the Attorney General's designee in pursuing the injunctions, and the Secretary is required to publish an annual report concerning such injunctions on the website of the Kansas Department of Revenue.

Further, the bill provides that any person, whether or not a resident of Kansas, who engages in any conduct that could give rise to a cause of action under the Act, submits to the jurisdiction of the courts of the State of Kansas for purposes of the injunctions.

The bill requires legal actions under the Act to be brought in the district court of Shawnee County. The Secretary is permitted to enter into consent judgments with respect to violations of the Act in lieu of actions seeking injunctions.

The bill authorizes the Secretary to promulgate rules and regulations necessary to carry out the provisions of the Act.

Tax Credits for Contributions to the Eisenhower Foundation and the Friends of Cedar Crest Association

The bill authorizes, for tax years 2021 to 2025, nonrefundable income or financial institutions privilege tax credits equivalent to 50.0 percent of certain contributions to the Eisenhower Foundation. Credits are capped at \$25,000 for any individual income taxpayer and at \$50,000 for any corporation income or privilege taxpayer. The total amount of credits claimed in any fiscal year is limited to \$350,000.

The bill authorizes an identical credit for contributions to the Friends of Cedar Crest Association, with identical conditions, limits, and total annual credit amounts.

Single City Port Authority Tax Credit

The bill extends the sunset on the single city port authority tax credit from the end of tax year 2021 to the end of tax year 2024 and expands the credit to be available to all income taxpayers. Current law limits the credit to corporation income taxpayers.

Fraudulent Compensation

The bill clarifies that victims of identify theft do not owe Kansas individual income tax on any compensation that was fraudulently obtained by another individual. It requires the Kansas Department of Revenue to provide a method for any taxpayer to report whether the taxpayer was a victim of fraud and the amount of fraudulent income for the taxpayer reported to the Internal Revenue Service.

Income Tax Returns

The bill extends the deadline for the filing of Kansas corporation income tax returns to one month after the due date established under federal law. The bill also provides that no late-filing penalty will be assessed on taxpayers filing state corporation income tax returns when the return is filed within 30 days after having received extensions to file federal returns by the Internal Revenue Service. For all taxpayer returns other than corporate returns, the bill provides for filing deadlines to be the due date established by the federal Internal Revenue Code, including any applicable extensions granted by the Internal Revenue Service.

The provisions of the bill are applicable to returns for tax year 2020 and all future years.

Income Tax Withholding

The bill provides that, for calendar years 2021 and 2022, for wages paid to employees temporarily teleworking in a state other than their primary work location, employers have the option to withhold income taxes based on the state of each employee's primary work location instead of the state in which the employee is teleworking.

Rural Opportunity Zones Modifications

The bill extends the sunset on the Rural Opportunity Zone (ROZ) Student Loan Repayment Program from July 1, 2021, to July 1, 2023. The bill also extends the sunset on the income tax credit two years through tax year 2023 and also extends reporting requirements for the Secretary of Commerce from January 1, 2022, to January 1, 2024.

The bill changes the definition of "rural opportunity zone" from any of 77 listed counties to any county with a population less than or equal to 40,000.

Effective Date

The bill is in effect upon publication in the Kansas Register. The provisions relating to the Kansas Taxpayer Protection Act are effective beginning January 1, 2022.

Property Taxation: [Senate Sub. for HB 2313](#)

Senate Sub. for HB 2313 provides for property tax reimbursements in the event of shutdowns or restrictions due to disaster emergency declarations, extends the 20-mill statewide school finance levy, expands the motor vehicle property tax exemption for National Guard members, modifies *pro tempore* membership provisions for the State Board of Tax Appeals (BOTA), and requires the Legislative Division of Post Audit to study the impact of governmental and nonprofit organizations competing with for-profit businesses.

Disaster Emergency Declarations Property Tax Reimbursements

Beginning January 1, 2022, the bill provides for reimbursements from the county general fund to the owner of any building maintaining a business on the property that is shut down or limited in any capacity pursuant to a declared disaster emergency. The reimbursement is to be 1/365 of the amount of taxes levied for every day the business is shut down and 1/365 the amount of taxes levied multiplied by the percentage restricted for every day the business is required to restrict operations. “Restricted” means any occupancy limitation, limitation on periods of operation, or the exertion by any governmental entity of other significant control on business resources or functionality.

Taxation Property Tax

If the State or any political subdivision of the State, other than the county, issued the order shutting down or restricting the business, such governmental entity is required to reimburse the county for the cost of the reimbursement.

If the business on the property is not operated by the owner of the property, the property owner and the business operator are each entitled to 50 percent of the reimbursement. The business operator is permitted to assign the operator's share to the property owner as credit against any delinquent rent owed to the property owner.

Statewide School Finance Tax Levy

The bill re-authorizes the 20-mill property tax levy for school years 2021-2022 and 2022- 2023. The bill continues the exemption of residential property up to \$20,000 of its appraised valuation from the 20-mill property tax levy for taxable years 2021 and 2022.

National Guard Motor Vehicle Property Tax Exemption

The bill extends a vehicle property tax exemption for up to two motor vehicles to all current members in good standing of the Kansas Army National Guard, Kansas Air National Guard, or U.S. military reserve forces stationed in Kansas, beginning in tax year 2022. Under the law, members of the Kansas Army National Guard, Kansas Air National Guard, or Kansas reserve forces of the U.S. military receive the exemption only when stationed or assigned in Kansas under authority of Title 10 or 32 of the U.S. Code.

Board of Tax Appeals Pro Tempore Membership

The bill provides a *pro tempore* member of BOTA may be appointed when there is any vacancy on the Board, rather than two vacancies prior to the appointment of a *pro tempore* member.

Legislative Division of Post Audit Study

The bill requires the Legislative Post Audit Committee to direct the Legislative Division of Post Audit to conduct a study of the impact of nonprofit organizations and governmental entities competing against for-profit businesses during calendar year 2021 and submit a final study report to the Legislature on or before January 15, 2022.

Senate Sub. for Sub. for HB 2196 creates the Unemployment Compensation Modernization and Improvement Council; requires the Kansas Department of Labor (KDOL) to modernize its information technology (IT) infrastructure; makes temporary changes to the membership of the Employment Security Review Board; makes changes to Employment Security Rates tables; requires the Secretary of Labor to provide tax notifications and certain Employment Security Fund Data Reporting; provides for certain employer account protections; provides for transfers of federal coronavirus relief aid to the Employment Security Fund and the Legislature Employment Security Fund; prohibits the continuation of federal unemployment compensation programs using state funds; adjusts thresholds for maximum benefits; modifies the shared work program; and makes other employment security compensation changes.

The bill is in effect upon publication in the Kansas Register.