



# 2014 LEGISLATIVE HIGHLIGHTS

Kansas Legislative Research Department

June 30, 2014

<http://www.kslegislature.org/kldr>

## ABORTION

### Modifying Definitions and Statutory Language

**SB 54** amends different statutes pertaining to abortion, adding or revising certain definitions to make them consistent, including statutes on licensing abortion facilities, medical emergencies involving abortion, abortions for minors, and abortions at facilities owned by the University of Kansas Hospital Authority.

## AGENCY REORGANIZATIONS

### State Board of Veterinary Examiners

**SB 278** transfers all duties, powers, employees, and funding of the Board of Veterinary Examiners into the Division of Animal Health in the Kansas Department of Agriculture for a two-year period beginning on July 1, 2014.

## AGRICULTURE & NATURAL RESOURCES

### Controlled Shooting Areas

**SB272** increases a limitation on controlled shooting areas (CSAs) acreage. The law had directed the Secretary of Wildlife, Parks and Tourism to limit CSAs so the total acreage licensed as CSAs in a county does not exceed 3.0 percent of the county's total acreage; the bill increases this limitation to 5.0 percent.

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

**SB 286** extends the sunset from July 1, 2015, to July 1, 2018, on various fees that are currently charged by the Kansas Department of Agriculture. The bill also establishes the Local Food and Farm Task Force, which is responsible for preparing a local food and farm plan containing policy and funding recommendations in order to increase locally grown food production. In addition, the bill designates the last Saturday in July of each year as National Day of the Cowboy in the state.

### Hunter Education Deferrals; Purchase of Land; Unlawfully Taken Wildlife Items

**SB 357** increases the number of deferrals from one to two for the completion of hunter education for a person who is 16 or more years of age. Each deferral will be valid until the end of the license year in which a license is purchased. The bill also authorizes the Department of Wildlife, Parks and Tourism (KDWP) to purchase a parcel of land in both Cherokee County and Pottawatomie County. In addition, the bill changes the options available to KDWP in disposing of unlawfully taken wildlife items.

### State Sovereignty; Lesser and Greater Prairie Chickens

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

sole regulatory authority to govern the management, habitats, hunting, and possession of lesser and greater prairie chickens that exist within the state. In addition, the bill establishes that lesser and greater prairie chickens and their habitats existing within the state are not subject to the Endangered Species Act of 1973 (Act) or to any federal regulations or executive actions related to the Act.

## ALCOHOL, DRUGS, AND GAMBLING

### Raffles Amendment

**Sub. for SCR 1618** submits a state constitutional amendment on raffles for consideration at the next general election, in November 2014. The amendment,

## Highlights Index

Abortion .....	1
Agency Reorganizations .....	1
Agriculture & Natural Resources .....	1
Alcohol, Drugs, and Gambling .....	1
Children's Issues .....	2
Commerce & Labor .....	2
Concealed Carry & Firearms .....	3
Education .....	3
Ethics & Elections .....	4
Financial Institutions & Insurance .....	4
Health .....	5
Judiciary .....	5
Local Government .....	7
Retirement .....	8
State Finances .....	8
State Government .....	9
Taxation .....	9
Transportation .....	10
Utilities & Telecommunication .....	11
Veterans and Military .....	11

if adopted, will allow the Legislature to authorize the licensing, conduct, and regulation of charitable raffles by nonprofit, religious, charitable, fraternal, educational, and veterans organizations.

**Amendments to the Liquor Control Act:  
Homemade Fermented Beverages,  
Microbrewery Gallonage, Licensee  
Citizenship**

**Sub. for HB 2223** allows homemade fermented beverages to be provided to guests and judges at a contest or competition so long as no compensation is provided.

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

Finally, the bill modifies the current citizenship requirement for a Liquor Control Act licensee to only require U.S. Citizenship.

**SE Kansas Gaming Zone**

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



**CHILDREN'S ISSUES**

**Juvenile Statute of Limitations, Juvenile  
Rehabilitation Programs**

**SB 329** amends the statute of limitations for several juvenile offenses to more closely align with the statute of limitations for the corresponding (adult) crimes. The bill also expands programs in which a court may order participation by a juvenile offender's parent. Specifically, the court may order parental participation in any evidence-based program designed to rehabilitate the juvenile.

**Newborn Infant Protection Act**

**HB 2577** amends the Newborn Infant Protection Act to add police stations, sheriff's offices, and law enforcement centers to the locations where an infant can be surrendered. Disclosure of the name or other identifiable information of a parent or custodian who voluntarily surrenders physical custody of an infant under the Act is protected, unless there is reasonable suspicion the infant has been abused.

**Revised Juvenile Justice Code—  
Adjudication, Assessment, Prosecution  
as Adult, Placement; Revised Code  
for Care of Children—Placement,  
Permanent Custody; Youth Residential  
Centers**

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

The bill creates an alternative adjudication procedure in the Juvenile Code for misdemeanor-level offenses, allowing the county or district attorney to designate an alleged offender for the alternative procedure. Among other features, the alternative procedure prevents placement in a juvenile correctional facility or use of the adjudication in a subsequent proceeding. The adjudication must be expunged upon completion of the case and records of the adjudication will not be retained. Offender registration requirements do not apply, and the offender shall not be subject to prosecution as an adult.

The bill amends the CINC Code to prohibit a child in need of care from being placed in a juvenile detention facility unless required for safety reasons or authorized under the Juvenile Code.

The bill requires the Secretary of Corrections to undertake certain studies and evaluations related to Youth

Residential Centers and their costs, program needs, and performance, and to report on these efforts to the Legislature.

The bill removes the Secretary for Children and Families as a permanent custody option upon the relinquishment of parental rights.

The bill further amends the Juvenile Code to: require a standardized risk assessment tool be used as part of the pre-sentence investigation and report following an adjudication; prohibit the prosecution of a juvenile under 12 years of age as an adult; adjust the placement matrix categories and placement options; and include juvenile offenders serving minimum-term placement matrix sentences in the "good time" system.



**COMMERCE & LABOR**

**Peer Review Procedure**

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

**Changes to Promoting Employment Across  
Kansas (PEAK) Program**

**Sub. for HB 2430** changes the Promoting Employment Across Kansas (PEAK) Program in several ways. The bill permits the PEAK Program to be used for job retention for an additional 3.5 years, extending the sunset from December 31, 2014, to June 30, 2018. The aggregate amount of benefits received annually by qualified companies that retain jobs is capped at \$1.2 million during FY 2015 through FY 2018. The bill applies caps on the aggregate amount of PEAK benefits received by qualified companies that expand or relocate operations in Kansas. In FY 2014, the cap is \$12 million. In FY 2015, the cap is \$18 million, \$24 million in FY 2016, \$30 million in FY 2017, \$36 million in FY 2018, and \$42 million in FY 2019 and subsequent fiscal years.

## **Bioscience Companies Eligible for Other Economic Development Incentives**

**HB 2440** allows the Kansas Bioscience Authority and the Secretary of Revenue to determine jointly that a business classified as a bioscience company would no longer be considered a bioscience company for the purposes of the Emerging Industry Investment Act, which is to foster growth of the bioscience industry in Kansas, allowing the bioscience company to become eligible for other economic development incentives made available by the state.

## **Unemployment Insurance—Revisions; New Category of Employer Rates Created**

**HB 2576** revises provisions of the Unemployment Insurance (UI) Law. Starting in rate year 2015, all new employers (both non-construction and construction employers) who started doing business in Kansas on July 1, 2014, or later are eligible for a UI contribution rate equal to either 2.7 percent of wages paid or, in the alternative, the UI rate paid by the employer in another state prior to moving to Kansas. To be eligible, a new employer may submit a request with the Labor Department within 30 days of receiving notice of contributions owed and provide the certain information. In no event may the alternative contribution rate be less than 1.0 percent. The bill also creates a new classification for employers, called “Entering and Expanding Employers,” which are eligible to receive a rate of 2.7 percent for four years, subject to approval by the Secretary of Labor.



## **CONCEALED CARRY & FIREARMS**

### **Concealed Carry by Off-Duty and Retired Law Enforcement Officers**

**HB 2140** creates new law allowing in-state, off-duty and retired law enforcement officers, out-of-state law enforcement officers, and retired law

enforcement officers, under certain circumstances, to carry a concealed handgun in any building where an on-duty law enforcement officer is authorized to carry, including buildings lawfully prohibiting the concealed carry of firearms.

### **Firearms Transfer; Concealed Carry; Open Carry; Forfeiture, Return, and Buyback of Firearms; Criminal Use; Criminal Possession**

**HB 2578**, among other things,

- Specifies the conditions for granting federal firearm transfers, for denying transfers, and when denied transfers can be appealed;
- Creates new prohibitions for municipalities related to the termination, demotion, discipline, discrimination against concealed carry license holders, and records of employees’ status as concealed carry license holders;
- Updates law concerning the operation, possession, or carrying of a concealed handgun under the influence of alcohol or illegally used controlled substances;
- Establishes new posting requirements for certain public buildings and any private buildings where the open carrying of firearms can be restricted under certain circumstances; and
- Amends law regarding local government regulation of weapons, forfeiture and return of firearms, firearms buyback programs, and criminal use and possession of weapons.



## **EDUCATION**

### **Student Data Privacy Act**

**SB 367** creates the Student Data Privacy Act, which provides restrictions on what data contained in a student’s educational

record may be disclosed, and to whom it may be disclosed.

### **K-12 Education Appropriations**

**Senate Sub. for HB 2506** appropriates an additional \$109.3 million for Supplemental General State Aid (local option budget equalization aid) and makes a transfer of \$25.2 million to the Capital Outlay Fund from the State General Fund (SGF). Changes in the school finance formula, described below, result in a decrease in various weightings taking effect beginning in FY 2015 and thereafter, unless otherwise noted. The bill also makes several education policy changes, some of which are outlined as follows:

**Phase-Out of the School Facilities Weighting.** The bill limits use of the school facilities weighting to only those districts that have adopted a local option budget (LOB) of at least 25.0 percent of the amount of state financial aid and for which the contractual bond obligations incurred by the district were approved by voters on or before July 1, 2014.

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

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

**LOB Authority Expansion; Election Requirement.** With regard to the LOB, the bill amends the statutory Base State Aid Per Pupil (BSAPP) used in calculating the LOB from \$4,433 to

\$4,490 for school years 2014-2015 and 2015-2016, after which the BSAPP of \$4,433 would be extended until June 30, 2017. The bill excludes virtual school state aid from the amount of state financial aid used in calculating the LOB. For school year 2014-2015, the bill allows any school district that has adopted an LOB in excess of 30.0 percent on or before June 30, 2014, to adopt a second resolution in an amount not to exceed 2.0 percent. This resolution will expire on June 30, 2015, at which time a mail ballot election will be required to exceed an LOB of 30.0 percent. The bill also authorizes USD 207, Fort Leavenworth, to adopt an LOB in excess of 30.0 percent with a resolution, subject to protest petition.

**Capacities Required for Every Kansas Student.** The new law states the State Board must design subjects and areas of instruction to achieve the goals established by the Legislature of providing every child sufficient education in the capacities listed in the bill.

**Public Innovative District Ceiling Increase.** The bill increases the maximum percentage of Kansas school districts that may operate as Public Innovative Districts from 10.0 percent to 20.0 percent. The bill authorizes the additional 10.0 percent of school districts to operate as Public Innovative Districts if the school district operates a school within its district that is deemed to be either a Title I Focus School or a Title I Priority School.

**Tax Credit for Low Income Students Scholarship Program Act.** The bill creates the Tax Credit for Low Income Students Scholarship Program Act to provide eligible students with scholarships to pay all or a portion of tuition to attend a qualified school in Kansas. The scholarship will be financed via a tax credit against corporate income and premium (insurance companies) or privilege (financial institutions) tax liability beginning with tax year 2014 in an amount equal to 70.0

percent of the amount contributed for scholarships.

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

The bill amends the law concerning due process procedures for the termination of a teacher contract. In the act governing due process procedures, the bill strikes from the definition of “teacher” any professional employee who is required to hold a certificate to teach in any school district.

## **ETHICS & ELECTIONS**

### **Ballot Language Statements**

**HB 2130**, among other things, allows county election officials to request the preparation of a ballot language statement, which must fairly and accurately explain what a vote for and a vote against the question represents.

The explanation will either be written by county legal staff and approved by the Secretary of State’s office, or it will be written by the Secretary of State’s office and approved by the Attorney General’s office, depending how the ballot question arose.

### **Deadline for Changing Party Affiliation**

**HB 2210** prohibits a person from changing party affiliation from the candidate filing deadline (June 1) through the date when primary election results are certified by the Secretary of State (on or before September 1). For 2014 only, the deadline is July 1 due to the effective date of the law.

## **FINANCIAL INSTITUTIONS & INSURANCE**

### **Association Health Plans**

**SB 309** adds any other qualified trade, merchant, retail or professional association or business league, and farmers’ cooperatives to the list of associations providing health insurance

coverage exempted from the jurisdiction of the Insurance Commissioner. A “qualified trade, merchant, retail or professional association or business league” is any bona fide trade, merchant, retail or professional association or business league that has been in existence for at least five calendar years and is composed of five or more employers.

### **Kansas Uniform Securities Act**

**HB 2433** amends criminal penalties under the Act so that a violation committed against an elder person (60 years of age or older) is increased by one severity level. It is not a defense that the offender did not know the age of the victim or believed the victim was not an elder person. The bill also allows resources from the newly renamed “Investor Education and Protection Fund” to be used for enforcement and prosecution of securities fraud.

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

**HB 2516**, among other things, adds physician assistants, nursing facilities, assisted living facilities, residential health care facilities, and certain advanced practice registered nurses (certified in the role of nurse midwife), as of January 1, 2015, to the definition of a health care provider for whom professional liability insurance and Health Care Stabilization Fund (HCSF) coverage is a condition of licensure to practice in the state. The bill also continues HCSF coverage for inactive health care providers for prior acts (commonly referred to as “tail coverage”) immediately upon cancellation or inactivation of a Kansas license and professional liability insurance, removing a five-year compliance period requirement prior to eligibility.

*SB 311 (described in Judiciary) raises the non-economic damages cap in personal injury actions, including medical malpractice.*

## **COBRA for Certain Personnel; State Fair Board Coverage**

**HB 2537**, among other things, requires municipalities to pay for continuation of health coverage under COBRA for the surviving spouse and eligible dependent children of emergency personnel or law enforcement officers employed by the Kansas Department of Corrections who die in the line of duty. The bill also authorizes the State Fair Board to purchase event cancellation and rain insurance coverage.

## **Predetermination of Health Care Benefits**

**HB 2668** creates the Predetermination of Health Care Benefits Act and establishes a request and information transaction process termed as the “health care predetermination request and response.” Health plans that receive an electronic health predetermination request will be required to provide to the requesting health care provider the amounts of expected benefits coverage on the procedures specified. The amount of expected benefits must include the amount the patient would be expected to pay, the amount the health care provider and institution will be paid, and whether any payments will be reduced from the agreed fee schedule amounts. The health plan’s response must be accurate at the time of the response but would be deemed to be an estimate only and would not be binding upon the plan with regard to the final amount of benefits actually provided. The effective date of the bill is July 1, 2017.

## **Insurance Coverage for Autism Spectrum Disorder**

**HB 2744** requires health insurance coverage for the diagnosis and treatment of Autism Spectrum Disorder (ASD) in children under age 12. Large health insurance plans must provide ASD coverage effective January 1, 2015, and the requirement extends to grandfathered individual or small group plans effective July 1, 2016. Applied behavioral analysis

(ABA) coverage is limited to 1,300 hours per calendar year for the first four years beginning with the later of the date of diagnosis or January 1, 2015, for children diagnosed with ASD between birth and age 5. The limits are then reduced to 520 hours per calendar year for children younger than 12. Except for ABA coverage, ASD services are not subject to the age and hour limitations imposed by the bill. No insurer is allowed to terminate coverage, or refuse to deliver or renew coverage to an individual solely because the individual is diagnosed with or has received treatment for ASD. Behavioral Sciences Regulatory Board licensure of ABA service providers will begin July 1, 2016.



## **HEALTH**

### **Meriden’s Law—Certificates of Birth Resulting in Stillbirth**

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

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

**HB 2552** requires a managed care organization (MCO) to fully pay or deny the allowed amount on all clean claims within 30 days after receipt and to fully pay or deny the allowed amount on all other claims within 90 days after receipt. The bill also subjects an MCO to a monetary penalty for late payments and allows a provider with a claim that remains unpaid by an MCO after the applicable time limits to bring a direct cause of action against the MCO for the amount of the unpaid claim and interest.

The bill also prohibits the expansion of Medicaid eligibility without the express consent and approval of the Legislature.

## **Health Care Compact**

**HB 2553** allows Kansas to join the Interstate Health Care Compact. The purpose of the Compact is to secure the right of Member States to regulate health care within their boundaries, and to secure federal funding for Member States that choose to invoke their authority under the funding provisions of the Compact.

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

**HB 2673** amends the Podiatry Act to expand and clarify the scope of podiatry and podiatric surgery. Changes made to the Kansas Healing Arts Act and the Physician Assistant (PA) Licensure Act include making the administrative and regulatory structures uniform among the 13 health professions licensed by the State Board of Healing Arts (Board) and addressing the reporting requirements and discipline of professions regulated by the Board and of PAs.



## **JUDICIARY**

### **Victim Notification**

**SB 248** amends law relating to the written notice provided by the Secretary of Corrections to victims or their families when the inmate convicted of the crime is released to require notice be provided at least 14 working days in advance.

### **Medicaid Fraud Control Act—Name, Definition, Penalties, Fines**

**SB 271** amends the Medicaid Fraud Control Act. Among other changes, the bill renames the crime established by the Act to “Medicaid fraud,” adds additional prohibited conduct to the crime, and restructures the crime severity levels

for counts involving an illegal claim so that they depend on the aggregate amount of payments illegally claimed. If the conduct underlying the Medicaid fraud causes a Medicaid recipient to receive lesser service than the recipient should have received, such fact may be considered an aggravating factor in making a departure determination. The bill establishes higher severity levels for illegal claims resulting in great bodily harm or in death and establishes a fine.

### **Non-Economic Damages Cap, Witness and Expert Witness Standards, Collateral Source Benefits Evidence**

**SB 311** amends the Code of Civil Procedure in three areas. First, it incrementally raises the cap on non-economic damages in personal injury actions over the next eight years so that the cap will eventually be \$350,000 for causes of action accruing on or after July 1, 2022.

Next, the bill clarifies the rule of evidence governing opinion testimony and amends the standards for admissibility of expert testimony.

Finally, the bill repeals statutes relating to the admission of evidence of collateral source benefits in actions for personal injury or death. The repealed statutes were declared unconstitutional and void by the Kansas Supreme Court in 1993.

### **District Magistrate Judges' Jurisdiction, Appeals**

**Senate Sub. for HB 2065** expands the jurisdiction of district magistrate judges, allowing them to conduct felony first appearance hearings and have jurisdiction over uncontested actions for divorce as well as other civil actions with the consent of the parties. Further, the bill clarifies district magistrate judges may hear misdemeanor arraignments. Appeals from district magistrate judges who are regularly admitted to practice law in Kansas will be directly to the

Court of Appeals. Otherwise, appeals will continue to be to a district judge.

### **Judicial Branch Appropriations; Docket Fees, Budgeting; Chief Judge Election; Judicial Vacancies**

**Senate Sub. for HB 2338** appropriates an additional \$2.0 million from the State General Fund for the Judicial Branch, bringing its FY 2015 budget to \$97,783,948.

The bill also creates statutory filing fees for appeals and motions for summary judgment and a garnishment request fee (with exceptions for the State of Kansas and its municipalities). The bill stipulates the first \$3.1 million in docket fees will be deposited in the newly created Electronic Filing and Centralized Case Management Fund. The Legislature estimates the filing fee adjustments will generate approximately \$6.2 million more than the FY 2014 estimated revenue of \$23.8 million for Judicial Branch operations.

The bill allows the chief judge of a judicial district to elect to prepare and submit a budget to the Chief Justice, beginning for FY 2016. The Chief Justice has final authority over the annual amount allocated to each judicial district budget, but a chief judge making the elections has control of the expenditures under the budget except for salaries mandated by law.

The bill establishes that the district court judges in each district shall elect a district judge to serve as chief judge. Similarly, the judges of the Court of the Appeals shall elect one of their colleagues to serve as chief judge.

Finally, the bill increases the time within which a judicial vacancy may be filled.

### **Disclosure of Information Supporting Search and Arrest Warrants; Stay of Criminal Appeals; Speedy Trial Deadline**

**Senate Sub. for HB 2389** allows any person to request the disclosure of probable cause affidavits or sworn testimony used to support an arrest or search warrant executed on or after July 1, 2014. Within five business days of receiving notice of such request, the defendant, defendant's counsel, and prosecutor may request that the court either redact specified provisions of the affidavit or sworn testimony or seal the documents. Within five business days of receiving the request to redact or seal or within ten business days of receiving notice of a request for disclosure, whichever is earlier, the magistrate shall either order disclosure of the affidavits or sworn testimony with appropriate redactions, if any, or order the affidavits or sworn testimony sealed and not subject to public disclosure.

Additionally, the bill provides the issuance of the mandate from the appellate court in criminal and related appeals must be automatically stayed when a party files notice that it intends to petition the U.S. Supreme Court for a writ of *certiorari*. Any mandate issued before a party files such notice must be withdrawn and stayed. The stay will be lifted if the petition for writ of *certiorari* is denied, upon the Supreme Court's final order after granting such petition, or once the time has expired for filing such petition and no petition has been filed.

Finally, the bill lengthens the speedy trial deadline for a defendant held in jail from 90 to 150 days after arraignment.

### **Fleeing and Eluding Police—Special Sentencing Rule**

**Sub. for HB 2442** establishes a special sentencing rule for a third or subsequent conviction of fleeing or eluding police to impose a sentence of presumptive

imprisonment served consecutively to any other prison sentence.

### **DNA Collection; Interference with Judicial Process; Justice Reinvestment Act Amendments; DUI and Test Refusal Expungement**

Senate Sub. for HB 2448 amends the Kansas Bureau of Investigation's (KBI's) collection process of DNA samples to align with current practices. This section is known as Katie's Law. Further, the bill makes it a class A nonperson misdemeanor for a person who has possession of or access to samples or profile records maintained by the KBI due to such person's employment or official position to disseminate such samples or records except in strict accordance with applicable laws, or for a criminal justice agency to request profile records without a legitimate need for such records. Conviction constitutes good cause for termination or licensure revocation or suspension.

The bill also makes it is a class A misdemeanor for a person to knowingly make available personal information about a judge or the judge's immediate family member, if dissemination of such information poses an imminent and serious threat to the judge's safety or the safety of such judge's immediate family member, and the person making the information available knows or reasonably should know of the imminent and serious threat. Upon a second or subsequent conviction, this crime is a severity level nine, person felony.

Next, the bill modifies the Justice Reinvestment Act. Among other changes, the bill adds intermediate sanctions for misdemeanor violators and clarifies the violation sanctions apply to any violation occurring on or after July 1, 2013, regardless of the date the underlying crime was committed or of sentencing for the underlying crime.

Finally, the bill reduces the period before which a person with a conviction

of or diversion for DUI may petition for expungement of the conviction or diversion from ten years to seven years. The bill raises the expungement period for a conviction of or diversion for test refusal from three years to seven years.

### **Terrorism—Civil Actions, Civil Forfeiture**

HB 2463 establishes a civil cause of action for a person injured as a result of conduct that would constitute the crime of terrorism or the crime of furtherance of terrorism or illegal weapons of mass destruction, against the person engaging in such conduct. A prevailing plaintiff would be entitled to recover the greater of \$10,000 or three times the actual damages caused, plus costs and fees. There is a five-year statute of limitations and a victim may request the Attorney General to pursue the case on the victim's behalf.

Finally, the bill adds the crimes of terrorism and illegal use of weapons of mass destruction to the civil forfeiture statute.

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

HB 2490 amends various statutes related to criminal sentencing.

The bill establishes that a life sentence with a mandatory minimum term of imprisonment of 50 years (the "Hard 50" sentence) is the default sentence for a conviction of premeditated first degree murder committed on or after July 1, 2014. The sentencing judge may impose a "Hard 25" sentence if the judge finds substantial and compelling reasons to do so after reviewing mitigating circumstances.

The bill also imposes the "Hard 25" sentence for a conviction of attempted capital murder or for a conviction of first degree–felony murder.

Finally, the bill clarifies provisions related to the sentence of life without the possibility of parole and the sentence of death.

### **Interference with Law Enforcement, Alternative Sentencing for Veterans in Certain Circumstances**

Senate Sub. for HB 2655, among other changes, amends the crime of interference with law enforcement to include falsely reporting to law enforcement that a law enforcement officer has committed a crime or misconduct in the performance of the officer's duties, if the perpetrator knows this information is false and intends for the officer or agency to act upon such information.

The bill also creates an alternative sentencing treatment option for defendants who fall in a presumptive non-prison sentencing category and who assert that the offense was committed as a result of mental illness, including post-traumatic stress disorder, stemming from service in a combat zone while in the U.S. Armed Forces. The court must hold a hearing to determine whether such defendant meets the criteria set forth in the bill for the treatment option.



## **LOCAL GOVERNMENT**

### **Local Property Tax Increases**

HB 2047 prohibits most municipalities, absent a majority vote and publication of such vote in official county newspapers, from approving annual budgets or other appropriations funded by certain increases in property taxes over the prior year that exceed the rate of inflation.

A second provision of the bill requires all other municipalities, in response to increases in total tangible property valuation, to reduce the amount of most taxes levied to the prior year's level, absent a specifically allowed exception.

## Education Requirements for Certain Contractors

**HB 2172**, among other things, changes from 240 hours classroom training to 930 program hours the education requirement for any plumber, electrician, and HVAC mechanic seeking a journeyman certificate who elects to satisfy part of the licensing requirement (in counties and cities where licensing is required) with trade-related schooling.

## Municipal Recycling Services

**HB 2597** allows municipalities that already provide solid waste collection services to immediately offer recycling collection services so long as the municipality conducts a public hearing on the proposed plan, with 21 days prior notice provided, and no existing recycling collector formally opposes the new system within 21 days of the hearing.

If objection is made the municipality must wait 18 months or until the objection is withdrawn, whichever occurs first.

## RETIREMENT

### Changes in New Plan

**HB 2533** makes retirement plan design changes for future tier 3 members of the Kansas Public Employees Retirement System (KPERs) plan to be implemented on January 1, 2015, to include most newly hired state, local, and public school employees. Provisions in the bill change the base year from 2016 to 2015 for calculation of interest credits; reduce the minimum guaranteed crediting rate from 5.25 percent to 4.0 percent; revise the formula for determining the additional discretionary interest credits; and revise the initial annuity interest rate credit of 6.0 percent at time of retirement to an interest rate equal to 2.0 percent less than the actuarial assumed investment rate.

## Hold Harmless Revived

**HB 2596** revives a provision concerning state employee retirement and disability benefits calculations that previously expired on June 30, 2007. The bill permanently reinstates the provision that holds harmless the calculations for both retirement benefits and disability benefits for any state employee member of the Kansas Public Employees Retirement System (KPERs), the Kansas Police and Firemen's (KP&F) Retirement System, or the Retirement System for Judges, if the employee is furloughed or accepted a voluntary reduction in pay during the period of time used for determining benefits.



## STATE FINANCES

### State Budget; Senate Sub. for Sub. for HB 2231; Senate Sub. for HB 2506; Senate Sub. for HB 2338

**Senate Sub. for Sub. for HB 2231, Senate Sub. for HB 2506, and Senate Sub. for HB 2338** include funding for claims against the state; FY 2014 and FY 2015 supplemental expenditures for most state agencies; and FY 2014 and FY 2015 capital improvements for selected state agencies. Policy aspects of Senate Sub. for HB 2506 and Senate Sub. for HB 2338 are found in the Education and Judiciary sections respectively.

**FY 2014:** The approved FY 2014 budget totals \$15.029 billion, including \$5.999 billion from the State General Fund. The approved budget is a reduction of \$34.8 million from all funding sources, including a decrease of \$27.1 million from the State General Fund below the Governor's recommended expenditures. The FY 2014 approved budget provides for a State General Fund balance of \$687.4 million, or 11.5 percent of state expenditures.

Among the approved adjustments to the Governor's FY 2014 recommendations is the following:

- Adjusted for the new spring estimate for all human services caseloads with a decrease of \$17.1 million from all funding sources and \$24.5 million from the State General Fund.

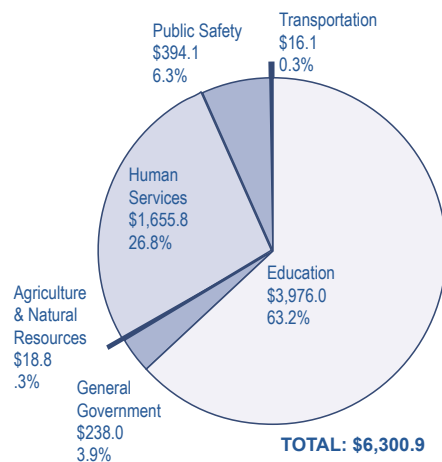
**FY 2015:** For FY 2015, the approved budget totals \$15.352 billion, including \$6.301 billion from the State General Fund. This represents an increase from all funding sources of \$755.9 million and a State General Fund expenditures increase of \$92.2 million above the Governor's recommendations for FY 2015. The budget also represents decreased State General Fund receipts of \$4.0 million for FY 2015. The FY 2015 approved budget provides for a State General Fund balance of \$365.9 million, or 5.8 percent of state expenditures.

Among the approved adjustments to the Governor's FY 2015 recommendations include:

- Adjusted for the new spring estimate for all human services caseloads with an increase of \$55.2 million from all funding sources and a decrease of \$6.0 million from the State General Fund, as compared to the Governor's recommended budget;
- Added \$109.3 million for Supplemental General State Aid (local option budget equalization aid) and makes a revenue transfer of \$25.2 million to the Capital Outlay Fund from the State General Fund (HB 2506);
- Added \$2.0 million, all from the State General Fund, for the Judicial Branch. The additional appropriation provides a State General Fund budget of \$97,783,948 for FY 2015 (HB 2338); and
- Added \$586.8 million, all from special revenue funds, to the Department of Education from language in Sub. for SB 245 which requires the deposit of the 20 mill property tax in the State Treasury. This was formerly provided directly to local school districts.



The following pie chart reflects approved State General Fund expenditures by function of government for FY 2015:



NOTE: The pie chart above does not include \$4.5 million in expenditures for state employee bonuses which has not been allocated to state agencies as of this publication. The \$4.5 million is included in the above total.

## STATE GOVERNMENT

### Oil and Gas Valuation Depletion Trust Fund

**SB 245** amends the law to credit 12.41 percent of FY 2013, FY 2014, and FY 2015 mineral severance taxes collected in counties with receipts in excess of \$100,000 to the Oil and Gas Valuation Depletion Trust Fund. The bill abolishes the Fund on July 1, 2016.

The bill creates the Mineral Production Education Fund (MPEF) on July 1, 2016. Beginning in FY 2017, the bill credits the fund with 20.0 percent of mineral severance taxes collected during the previous fiscal year. The monies in the MPEF subsequently will be transferred twice each year to the State School District Finance Fund.

The bill allows counties to retain funds currently in their respective oil and gas valuation depletion trust funds, and those funds will be released to their county general fund to be expended as directed by the board of county commissioners.

### Sale of Landon, Eisenhower, Curtis, and Van Buren State Office Buildings

**SB 423** grants the Department of Administration (DOA) the authority to sell the Landon State Office Building, the Eisenhower State Office Building, the Curtis State Office Building and parking facility, and the Van Buren Project. The Van Buren Project and the Curtis State Office Building currently are not owned by the State.

The sale is subject to approval by the Joint Committee on State Building Construction and the State Finance Council.

The bill designates the first \$15.0 million from the sale be deposited in a special revenue fund within the DOA to fund the demolition of the Docking State Office Building. The bill further directs 80.0 percent of the proceeds from the sale of the properties to the Kansas Public Employee Retirement System Trust Fund to reduce the unfunded liability and 20.0 percent to a special revenue fund within the DOA.

### Feasibility Report on State Administration of Federal OSHA Standards

**Senate Sub. for HB 2616** requires the Secretary of Labor to study and make recommendations concerning whether the State should propose a safe and healthful employment plan to the federal government that is at least as effective as the standards set by the federal Occupational Safety and Health Act (OSHA). By January 12, 2015, the Secretary will submit a report to certain legislative officers and committees.

## TAXATION

### Court of Tax Appeals

**House Sub. for SB 231** makes a number of changes in the power, duties, and functions of the State Court of Tax Appeals, especially with regard to property tax valuation appeals; renames

that body the State Board of Tax Appeals; makes several changes with respect to how property may be valued for taxation purposes; and lowers the interest rate on delinquent property taxes.

### Income Tax Credits, Other Provisions

**SB 265** reinstates two adoption tax credits, creates a sales tax exemption for certain materials, machinery and equipment installed as a part of certain animal production and aquaculture projects, creates a tax deduction for the net gain from the sale of certain livestock, and includes various other provisions.

**Adoption Tax Credits.** The bill reinstates two adoption tax credits removed during the 2012 Legislative Session. One credit allows for a credit ranging from 25 percent to 75 percent of the federal adoption tax credit depending on if the child was a Kansas resident prior to adoption and if the child has special needs. The other credit the bill allows is a \$1,500 credit for the adoption of a child with special needs or a child in the custody of the Secretary for Children and Families.

**Agricultural Projects Sales Tax Exemption.** The bill creates a sales tax exemption for certain animal production and aquaculture businesses for the purchase of certain materials, machinery and equipment.

**Livestock Net Gain Deduction.** The bill creates an income tax deduction for the net gain of the sale of cattle or horses held by the taxpayer for draft, breeding, dairy, or sporting purposes that were held by the taxpayer for 24 months or more. The bill creates the same deduction for other livestock held for draft, breeding, dairy, or sporting purposes for 12 months or more from the date of acquisition. The deduction is limited to the amount of certain losses reported on federal form 1040.

**Other Provisions.** The bill makes changes to the definition of income

within the Homestead Refund Program; removes the income tax withholding requirement for nonresident pass-through entities; clarifies amounts added to federal adjusted gross income for the purposes of calculating Kansas adjusted gross income; provides an income tax subtraction modification associated with organ donation; reinstates two tax credits for expenditures used to make a dwelling or facility accessible for persons with disabilities; and repeals the sunset date for the Kansas Taxpayer Transparency Act.

### **Sales Tax Exemptions, Other Provisions**

**SB 266** provides three sales tax exemptions, creates a property tax exemption for amateur-built aircraft, and includes various other provisions.

**Sales Tax Exemptions.** The bill provides an exemption for constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities of the Wichita Children's Home. Additional exemptions applies to sales of property and services purchased by or on behalf of Reaching Out from Within, Inc. and the Beacon, Inc., two not-for-profit groups.

**Amateur-Built Aircraft.** The bill creates a property tax exemption for all amateur-built aircraft used for recreational or display purposes.

**Other Provisions.** The bill also changes the due date for the mineral severance tax return; authorizes Rooks County to impose an additional 0.5 percent sales tax to finance construction or remodeling of a jail; and removes a requirement that the Court of Tax Appeals (COTA) review and approve applications for a tax exemption for land and easements that are donated to the State for the construction or maintenance of a dam or reservoir.

### **Expensing Deduction, Disaster-Related Property Tax Relief**

**HB 2057** extends an expensing deduction to financial institutions, revives and expands a program authorizing counties to grant property tax abatements or credits to owners of homesteads destroyed or substantially damaged by certain disasters, and includes various other provisions.

**Expensing Deduction for Financial Institutions Privilege Tax.** The bill extends to the financial institutions privilege tax a special "expensing" deduction previously available only under the corporate income tax for certain qualifying investments.

**Property Tax Abatements for Property Destroyed by Disaster.** The bill revives a program authorizing counties to grant property tax abatements or credits to owners of homesteads substantially damaged by certain disasters. The bill expands the program by removing a requirement that the Governor must have declared a disaster relative to the event causing the damage. The bill also eliminates a requirement that prevented counties from granting relief to owners who were recipients of certain buyout or insurance proceeds.

**Other Provisions.** The bill authorizes the appointment of interim county appraisers; relieves certain personal property tax liability for owners or lessees of real property upon which personal property has been abandoned or repossessed; clarifies procedures for the collection of taxes on sold or transferred personal property; revises the definition of "community service" as the term is used in the Community Service Tax Credit Program; adds a subtraction modification to the income tax of retired employees of the City of Overland Park Police and Fire Departments; and calculates the conversion of the compressed natural gas to gasoline gallon energy equivalent and the liquified natural gas to diesel gallon

energy equivalent for the purpose of per-gallon taxation on natural gas motor fuel.

### **Property Tax, Mortgage Registration Tax Repeal, Other Provisions**

**HB 2643** makes amendments to property tax, motor vehicle tax, and mortgage registration tax provisions. The bill also makes a change to an income tax penalty provision and expands the Rural Opportunity Zone (ROZ) program.

Among other things, the bill requires county appraisers, in determining which property is classified as personal property or real property, to use certain existing definitions of real and personal property. The bill also defines, for property tax purposes beginning in tax year 2014, commercial and industrial machinery and equipment to include certain property used directly in the manufacture of cement, lime, or similar products.

The bill phases out the mortgage registration tax over five years, while additional statutory fees collected by county registers of deeds relative to documents filed with county registers of deeds are phased in over four years. The bill also clarifies eligibility of a motor vehicle tax exemption for certain members of the military, expands the ROZ program by adding four counties, and removes an underpayment of liability penalty from certain taxpayers who had timely paid the full amount due on the original returns.



## **TRANSPORTATION**

### **Regulation of Commercial Motor Vehicles**

**House Sub. for SB 273** allows a commercial motor vehicles (CMV) with a weight or weight rating of 26,000 pounds or less operating in intrastate commerce to operate without having to obtain a certificate, license, or permit from the Kansas Corporation Commission. Such vehicles also are exempt from intrastate CMV safety regulations except for load securement

and periodic inspection regulations. Law enforcement officers are required to issue warning citations regarding load securement until October 1, 2014, and regarding periodic inspection until July 1, 2015. These provisions expire July 1, 2015.

CMVs of 26,000 pounds or less which are designed or used to transport 16 or more persons or vehicles used to transport hazardous materials continue to be subject to all requirements.

### **Distinctive License Plates**

**Sub. for HB 2452**, in addition to authorizing Donate Life, Kansas Horse Council, and Rotary International distinctive license plates, permits the production of distinctive license plates for motorcycles at the request of the sponsoring organization for any distinctive license plate. The bill also allows a member of the armed forces who is stationed in Kansas and eligible for a regular Kansas license plate, but who maintains official residency in another state, to be eligible for a distinctive license plate. Formerly, only residents of Kansas were eligible for distinctive license plates.

## **UTILITIES & TELECOMMUNICATION**

### **Kansas No-Call Act**

**SB 308** allows the Office of the Attorney General to enforce the Kansas law against telemarketers who call a consumer's listed cellphone number in violation of the law.

### **Net Metering and Easy Connection Act**

**Senate Sub. for HB 2101** amends the Net Metering and Easy Connection Act and law regarding parallel generation, with regard to net excess energy credits, tariffs or contracts; fees and rates assessed by the utilities; size limitations of net metering systems; and installation issues.

### **Seismic Monitoring**

**Senate Sub. for Sub. for HB 2231**, the budget bill, transfers \$160,000 to the newly created Geological Survey Fund within the Office of the Adjutant General in FY 2014. The funding will support seismic monitoring efforts.

### **Energy Efficiency Investment Act**

**Senate Sub. for HB 2482** requires the Kansas Corporation Commission (KCC) to permit electric and natural gas public utilities to implement programs to reduce consumption of electricity or natural gas by retail customers.

### **Carbon Dioxide Standards**

**HB 2636** allows the Secretary of Health and Environment to establish state performance standards for carbon dioxide emissions before standards are issued by the U.S. Environmental Protection Agency. The standards will apply to existing coal-fired and natural gas electric generating units and those that received a prevention of significant deterioration permit by July 1, 2014.

### **Keystone Pipeline**

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

## **VETERANS AND MILITARY**

### **Military Honors Fund; Death Gratuity Payment; Disabled Veterans Preference; Education Funding**

**SB 263** authorizes the Kansas Adjutant General to establish a Military Honors Fund which allows the Adjutant General to collect gifts, grants, and bequests for the purpose of providing military honors at funerals for Kansas veterans.

The bill requires the Adjutant General to pay a \$100,000 death gratuity payment

to any eligible Kansas military service member who died while serving in the military during a federal government shutdown.

The bill also makes changes to the State Use Law which allows disabled veterans in Kansas to be eligible for state jobs or service contracts. The law establishes a new preference for awarding state contracts to businesses owned by disabled veterans.

Finally, the bill allows school districts on military bases in Kansas to receive school facilities weighting if certain conditions are present.

### **Kansas Commission on Veterans Affairs Office; Advisory Board**

**Sub. for HB 2681** abolishes the Kansas Commission on Veterans Affairs and transfers all duties and powers to the newly created Kansas Commission on Veterans Affairs Office (KCVAO) and the Veterans Claims Assistance Program. The bill also creates the Veterans Claims Assistance Program Advisory Board.

The director of the KCVAO is appointed by the Governor, subject to confirmation by the Kansas Senate, and required to be a veteran. The director of the KCVAO appoints and oversees the Superintendents of the Kansas Soldiers' Home and the Kansas Veterans' Home. Additionally, the director of the KCVAO appoints a deputy director of veterans services. All appointments are subject to approval of the Governor.

The bill requires the director of the KCVAO to prepare and submit an annual report to both the House Committee on Veterans, Military and Homeland Security and the Office of the Governor on or before the first day of the 2015 Legislative Session.

Finally, the bill eliminates a requirement that any member's (veteran's) fund in excess of \$5,000 be deposited with the State Treasurer for safekeeping.

## 2014 Legislative Session At-A-Glance

### Bill Information

Senate bills carried over from the 2013 Session .....	187
Senate bills introduced in the 2014 Session .....	<u>207</u>
TOTAL Bills .....	394
House bills carried over from the 2013 Session .....	315
House bills introduced in the 2014 Session .....	<u>362</u>
TOTAL Bills .....	677
Bills considered in 2014 Session that became law:	
House Bills .....	102
Senate Bills .....	40
Percentage of Bills that became law: .....	13.3%
Days in Session .....	79

### Fiscal Information for FY 2015

(Dollars in Millions)

Estimated State General Fund Revenue	
Income Taxes	\$ 2,981.7
Excise Taxes	2,856.7
All Other	<u>136.2</u>
Total	\$ 5,974.6
Estimated State Budget	
State General Fund	\$ 6,272.9
All Other	<u>8,497.8</u>
Total	\$ 14,770.7
2013 Population Estimate	2,893,957

### Highlights of What's Inside:

- Autism Spectrum Disorder—Insurance Coverage
- Changing Party Affiliation Deadline
- Concealed Carry and Firearms Legislation
- Judicial Branch Appropriations, Docket Fees, and Budgeting
- K-12 Appropriations, Education Policy Changes
- The State Sovereignty Over Non-Migratory Wildlife Act