

**SECOND CONFERENCE COMMITTEE REPORT BRIEF
HOUSE SUBSTITUTE FOR SENATE BILL NO. 113**

As Agreed to April 28, 2023

Brief*

House Sub. for SB 113 would make appropriations for the Kansas State Department of Education (KSDE) for FY 2023, FY 2024, and FY 2025; amend the Kansas School Equity and Enhancement Act (KSEEA) with regard to the calculation of State Foundation Aid and specific weightings; extend the high density at-risk weighting sunset; and amend various provisions of law related to K-12 education.

The bill would also reduce the eligibility requirements for students who wish to take part in the Low-Income Students Scholarship Program, as well as increase the tax credit provision of the Low-Income Students Scholarship Program. In addition, authorize certain nonpublic students to participate in activities regulated by the Kansas State High School Activities Association.

The bill would extend the 20 mill exemption for two years and would provide for the disposition of school district real property and allow the Legislature the right of first refusal to acquire the property.

Appropriations for FY 2023, FY 2024, and FY 2025 (Sections 1–3)

The bill would make appropriations for the KSDE.

FY 2023

For KSDE, the bill would:

- Appropriate \$5.9 million from the State General Fund (SGF) for Kansas Public Employees Retirement System (KPERS) school employer contributions of unified school districts (USDs);
- Appropriate \$541,000 from the SGF for Supplemental State Aid;
- Delete \$8.0 million SGF from the KPERS non-USDs account; and

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kIRD>

- Delete \$79.3 million from State Foundation Aid.

[Note: The Second Conference Committee adjusted the above amounts to reflect the 2023 spring Education Consensus estimates.]

FY 2024

For KSDE, the bill would appropriate \$6.3 billion, including \$4.1 billion SGF. This amount includes \$5.2 billion, including \$4.1 billion SGF, for the major categories of school finance, KPERS-USDs, and KPERS non-USDs.

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

- \$14.7 million for operating expenditures;
- \$47.9 million for State Foundation Aid;
- \$577,309 for Supplemental State Aid;
- \$80,000 for the Center for READING;
- \$29.8 million for KPERS non-USDs;
- \$531.9 million for KPERS-USDs;
- \$2.8 million for the ACT and WorkKeys Assessments Program;
- \$528.0 million for Special Education;
- \$1.5 million for Career and Technical Education Transportation;
- \$300,000 for the Juvenile Transitional Crisis Center Pilot program;
- \$67,700 for Education Commission of the States dues;
- \$10,000 for the School Safety Hotline;
- \$5.0 million for School Safety and Security Grants;
 - Include language to allow acquisition of naloxone hydrochloride products as an allowable expenditure in FY 2024;
- \$5.1 million for the School District Juvenile Detention Facilities and Flint Hills Job Corps Center Grants;
- \$2.5 million for School Food Assistance;
- \$1.3 million for the Mentor Teacher Program;
- \$110,000 for Educable Deaf-blind and Severely Handicapped Children's Programs Aid;

- \$360,693 for Governor’s Teaching Excellence Scholarships and Awards;
- \$2.4 million for Supplemental State Aid;
- \$1.8 million for Professional Development State Aid;
- \$1.0 million for Computer Science Education Advancement Grants; and
- \$40,000 for the Computer Technical Education Pilot.

The bill would delete \$13.5 million for the Mental Health Intervention Team Pilot program.

The bill would authorize school districts to expend School Safety and Security Grants for acquisition of communication devices and equipment necessary for effective communication between law enforcement, security services, and school, in addition to continuing allowable purposes. [Note: The Joint Committee on Kansas Security recommended this use of grant moneys in its report to the 2023 Legislature.]

Special Revenue Funds. The bill would also appropriate funding from several no-limit special revenue funds, including federal funds and fee funds. The bill would appropriate the following from the Children’s Initiatives Fund (CIF):

- \$375,000 for the Children’s Cabinet Accountability Fund;
- \$23.7 million for CIF grants;
- \$9.4 million for the Parent Education Program, also known as Parents as Teachers;
- \$4.2 million for the Pre-K Pilot Program and add language to reappropriate the unencumbered ending balance;
- \$1.4 million for Early Childhood Infrastructure and add language to reappropriate the unencumbered ending balance; and
- \$1.5 million for the Dolly Parton Imagination Library and add language to reappropriation unencumbered ending balance.

Transfers. The bill would provide for the following transfers:

- \$50,000 on July 1, 2024, or as soon as moneys are available, from the Family and Children Trust Account of the Family and Children Investment Fund of KSDE to the Communities in Schools Program Fund of KSDE;
- \$550,000 on March 30, 2024, and \$550,000 on June 30, 2024, from the State Safety Fund to the SGF to reimburse costs associated with services provided by other state agencies on behalf of KSDE;
- \$81,250, quarterly, from the State Highway Fund of the Department of Transportation to the School Bus Safety Fund of KSDE;

- An amount certified by the Commissioner of Education from the Motorcycle Safety Fund of KSDE to the Motorcycle Safety Fund of the State Board of Regents, to cover costs of driver's license programs conducted by community colleges; and
- \$70,000 from the Universal Service Administrative Company E-rate Program Federal Fund of the State Board of Regents to the Education Technology Coordinator Fund of KSDE.

The bill would appropriate \$268,534 from the Kansas Endowment for Youth Fund for the Children's Cabinet administration.

The bill would also authorize the Commissioner of Education to transfer any part of an SGF appropriation for KSDE to another SGF appropriation for KSDE for FY 2024.

The bill would appropriate \$43.8 million from the Expanded Lottery Act Revenues Fund (ELARF) for KPERS non-USDs.

Curriculum. The bill would require a survey to be conducted and a list of all school districts that used curriculum and training materials which include the three-cueing systems model of reading or visual memory program in the preceding school year to be provided to the Senate Committee on Education, House Committee on Education, and the K-12 Education Budget Committee.

FY 2025

State General Fund. For KSDE, the bill would appropriate the following from the SGF:

- \$2.8 billion for State Foundation Aid;
- \$590.0 million for Supplemental State Aid; and
- \$535.5 million for Special Education Services Aid.

The bill also would authorize expenditures from the State School District Finance Fund and the Mineral Production Education Fund.

Disposition of School District Real Property; Legislature's Right to Refuse (New Section 4, Section 11)

The bill would amend and create law pertaining to USD real property to grant the Legislature the right of first refusal. The bill would also create a notification process of a school district board of education's intentions to dispose of a school building.

Notice of Disposition

First, a school district board of education would be required to submit written notice of its intention to dispose of a building to the Legislature, by filing a notice with the Chief Clerk of the House and the Secretary of the Senate. The bill would require the notice to include:

- A description of the school district's use of the building immediately prior to the decision to dispose;
- The reasons for the building's disuse and the decision to dispose of the building;
- The legal description of the real property to be disposed of; and
- A copy of the resolution adopted by the board of education.

The bill would provide for the Legislature's review, with timing depending on whether the Legislature is in session:

- If the notice is received during the regular session, the Legislature would have 45 days to adopt a concurrent resolution stating the Legislature's intention for the State to acquire such building; or
- If the notice is received when the Legislature is not in session, the Legislature would have 45 days from the commencement of its next regular session to adopt the concurrent resolution regarding the Legislature's intentions.

The bill would prescribe the information to be stated in the concurrent resolution, including provisions naming the state agency that would intend to acquire the building and the intended use of the building.

The bill would further provide that if the Legislature does not adopt a concurrent resolution within the 45-day period, the school district would be allowed to proceed with the disposition of the school district building in accordance with state law.

If the Legislature would adopt a concurrent resolution within the 45-day period, the state agency named in the resolution would have 180 days to complete the acquisition of the school district building and take title to the real property. Upon the request of the acquiring state agency, the Legislative Coordinating Council would be permitted to extend the 180-day period for a period of no more than 60 days. During the 180-day period and any authorized extension, a board of education would be prohibited from selling, gifting, leasing, or otherwise dispensing of the building or any real property described in the required written notice. If the state agency does not take title within the 180-day period or its extension, the school district would be permitted to proceed with disposition of the building.

Nonpublic School Students Participation in KSHSAA Activities (New Sections 5-6)

The bill would allow any nonpublic school student to participate in any activities offered by a school district that are regulated, supervised, promoted, and developed by the Kansas State High School Activities Association (KSHSAA), as long as the student:

- Is a resident of the school district;
- Is enrolled and attending a nonpublic elementary or secondary school;
- Complies with the requirements of KSA 72-6262 and amendments thereto; and

- Pays any fees required by the school district for participation in such activity.

The school district board of education could require a nonpublic school student who participates in an activity pursuant to this section to enroll or complete a particular course as a condition of participation, if such requirement is imposed upon all other students who participate in such activity. Under the bill, KSHSAA could not prohibit any such student from participating in any activity available to such student as part of the student's primary enrollment and attendance at a nonpublic school. [Note: The provisions pertaining to nonpublic school student participation would take effect on July 1, 2023.]

Special Education and Related Services Funding Task Force (New Section 7)

The bill would outline the topics to be studied by the Special Education and Related Services Funding Task Force, provide for the appointment and compensation of Task Force members, establish the frequency and location of meetings, and require a report to the Legislature.

Task Force Study Topics

The Task Force would be required to study and make recommendations for changes in the existing formula for the funding of special education and related services. In doing so, the Task Force would be required to conduct hearings in order to receive and consider suggestions from subject matter experts and the public at large.

The Task Force would be required to submit reports to the Legislature regarding the work and recommendations of the Task Force on or before January 14 of each year.

Organization of Task Force

Membership

The Task Force would consist of the following eleven members:

- Two members to be appointed by the Speaker of the House of Representative;
- Two members to be appointed by the President of the Senate;
- One member to be appointed by the Minority Leader of the House of Representatives;
- One member to be appointed by the Minority Leader of the Senate;
- One member to be appointed by the State Board of Education;
- Two members to be appointed by KSDE who are professionals in the field of special education and related services;

- One member to be appointed by KSDE who is professional in early childhood development services and provides services for a tiny-K program; and
- One member to be a parent of a student who receives special education services. The appointment would be for one year and alternate between the Speaker and the President.

The bill would require the members of the Task Force to be appointed on or before July 1, 2023. Vacancies on the Task Force would be filled by appointment in the manner provided for the original appointment.

Task Force Leadership

The bill would require the Speaker to designate one of their appointments to call the first meeting of the Task Force. The chairperson and vice-chairperson of the Task Force would be elected by the Task Force members.

Compensation

If approved by the Legislative Coordinating Council, Task Force members attending meetings authorized by the Task Force would receive compensation as provided under KSA 75-3223(e), except for Task Force members employed by a state agency who would be reimbursed by such state agency.

Meetings

The Task Force would be authorized to meet in an open meeting at any time and at any place in the state upon the call of the chairperson. A majority of the voting members would constitute a quorum. Any action by the Task Force would require a motion adopted by a majority of voting members present when there is a quorum.

Support Services

The bill would require the staff of the Office of Revisor of Statutes, Kansas Legislative Research Department, and Division of Legislative Administrative Services to provide assistance as requested by the Task Force.

Data and Information Provided

The State Board of Education would be required to provide consultants and assistance when requested by the Task Force and any information or documentation requested by the Task Force.

Compensating School Board Members (Section 8)

The bill would authorize school districts to compensate members of local boards of education for the work and duties performed by such members.

Nonresident Enrollment (Sections 9-10)

The bill would permit nonresident direct enrollment, beginning in school year 2024-2025, for students of school district employees and students experiencing homelessness. The bill would also require school districts to consider the adverse impact of homelessness on attendance when determining the school district's capacity to accept nonresident students. The bill also gives a priority to students who are children of a military parent, subject to capacity, to enroll and not be subject to the open seat lottery.

Low-income Students Scholarship Program (Sections 11-13)

The bill would update the definition and criteria for a "qualified school" by modifying an accreditation requirement to include a nonpublic school that is working in good faith toward accreditation.

The bill would also change the income eligibility for the scholarship from 185 percent of the federal poverty level to 250 percent of the federal poverty level. The bill would also increase the tax credit for contributions to scholarship granting organizations from 70 percent to 75 percent of the amount contributed.

KSEEA—Amendments (Section 14)

The bill would make several amendments to the Kansas School Equity and Enhancement Act concerning the calculation of State Foundation Aid and specific weightings related to school district building closures.

The bill would allow a school district to use enrollment numbers for all regularly enrolled students from kindergarten through grade 12 plus the school district's number of enrolled preschool-aged at-risk students as of September 20 of the current school year or previous school year for the purpose of calculating State Foundation Aid for the current fiscal year.

The bill would also allow a school district to utilize current school year or previous school year enrollment numbers for the purpose of calculating State Foundation Aid for the current fiscal year. [*Note:* Under current law, school districts are permitted to utilize enrollment numbers from one of the two prior school years for the calculation of State Foundation Aid. An alternative calculation method is also permitted for school districts that enroll military students and receive federal Impact Aid.]

The bill would modify the low enrollment and high enrollment weightings for any school district that attaches territory of a disorganized school district or accepts students in the current year who attended in the previous year a school building in a school district that has since been closed by the district. The bill would allow recipient districts to use the preceding year's low

enrollment factor for the next three years, or use the current low enrollment calculation if it is greater.

Continuing the 20 Mill Statewide Levy for Schools (Section 15)

The bill would extend the *ad valorem* tax levy on taxable tangible property of the school district to include the 2023-2024 and 2024-2025 school years and would continue the 20 mill statewide property tax for schools for the school years 2023-2024 and 2024-2025 in order to finance the portion of the school district's general fund budget not otherwise funded by law.

School District Cost-of-Living Weighting (Section 16)

The bill would amend the formula by which the State Board of Education determines whether a school district may levy a tax to finance costs incurred by the State that are directly attributable to assignment of the cost-of-living weighting to the district's enrollment, to multiply the statewide average appraised value of single family residences by 115 percent rather than 125 percent. The bill would also provide for an increase in the cost of living weighting cap from 5 percent to 7 percent in the 2023-2024 school year. The bill would provide for ensuing yearly increases in the cap using the preceding three-year average of the consumer price index for the urban region as an inflation increase. [Note: This weighting is funded by a local mill levy with no impact on the SGF.]

School District High Density At-Risk Weighting Sunset Extension (Section 17)

The bill would extend the high density at-risk weighting sunset from July 1, 2024 to July 1, 2027.

School District Capital Improvements (Section 18)

The bill would also remove language included in 2022 Senate Sub. for HB 2567 that required a transfer of revenue from the SGF to the School District Capital Improvements Fund. Starting in FY 2024, the bill would revert the transfer to a demand transfer in accordance with KSA 72-5462.

Effective Date

The bill would be in effect upon publication in the *Kansas Register*.

Conference Committee Action

The second Conference Committee agreed to the contents of House Sub. for SB 113, as amended by the House Committee of the Whole. The Conference Committee agreed to further amend the bill to:

- Adjust expenditures to reflect the spring 2023 Education Consensus school finance estimated expenditures;
- Add \$4.0 million SGF for State Foundation Aid and \$400,000 for FY 2024 for Supplemental State Aid, and amend KSEEA to allow a school district to use current school year enrollment or previous school year enrollment in calculating the school finance formula;
- Add \$528.0 million SGF for Special Education;
- Delete \$57.2 million SGF for Special Education State Aid for FY 2025, leaving \$535.5 million;
- Remove language creating the Mental Health Intervention Team program, and delete \$13.5 million for the Mental Health Intervention Team Pilot program;
- Add language to give priority to military students to enroll, subject to capacity, without using the open seat lottery;
- Remove language requiring school districts to create a parent portal and post certain information on the district's website;
- Add language to create the Task Force on Special Education and Related Services;
- Add language concerning the disposition of school district real property giving the Legislature the right of first refusal to acquire the property;
- Authorize certain nonpublic school students to participate in activities regulated by the KSHSAA;
- Make several amendments to the KSEEA concerning the enrollment and calculation of State Foundation Aid and low enrollment and high enrollment weightings related to school district building closures;
- Extend the high density at-risk weighting sunset to July 1, 2027; and
- Increase student eligibility and tax credits and modify the definition of qualified school for the Low-Income Students Scholarship program.

Background

House Sub. for SB 113 includes provisions of that bill (described below) and Sub. for SB 155 (an appropriations bill), as modified and agreed to by the second Conference Committee.

SB 113, as recommended by the Senate Committee on Public Health and Welfare, would have allowed naturopathic doctors to engage in the corporate practice of medicine. [*Note:* These provisions were not retained in the substitute bill.]

House Sub. for SB 113

The House Committee on K-12 Education Budget recommended a substitute bill incorporating provisions regarding appropriations for KSDE and K-12 education topics.

The House Committee added KSDE budget provisions to:

- Delete \$592.7 million SGF and associated language for the special education state aid for FY 2024 [*Note: The second Conference Committee included \$528.0 million SGF*];
- Delete \$1.9 million SGF to not adopt the agency's enhancement request for professional development for FY 2024;
- Delete \$1.0 million SGF to not adopt the agency's enhancement request for the Mentor Teacher Program for FY 2024;
- Delete \$1.3 million from the Children's Initiatives Fund to not adopt the agency's enhancement request for the Parents as Teachers Program for FY 2024;
- Remove only the portion of the Safe and Secure Schools program proviso language relating to acquisition of naloxone hydrochloride products as an allowable expenditure in FY 2024;
- Delete \$76.7 million SGF and remove the high density at-risk sunset extension proviso for FY 2025; and
- Delete \$72.4 million SGF for special education state aid for FY 2025.

The House Committee further amended the bill to:

- Insert sections 1, 2, 3, 4, and 5 of HB 2444, as introduced, to establish in statute the Mental Health Intervention Team (MHIT) Program [*Note: The second Conference Committee removed proviso language on this topic.*];
- Insert sections 1 and 2 of HB 2030, as introduced, to expand the students eligible to participate in KSHSAA activities;
- Insert sections 1, 2, and 3 of HB 2271, as amended by the House Committee, to create a parent web portal and expand nonresident enrollment for children of district employees and students experiencing homelessness;
- Insert section 1 of HB 2261 as introduced to allow school districts to pay school board members;
- Insert section 1 of HB 2040 as introduced to allow the current year student enrollment to be used in the school finance formula;
- Insert section 1 of SB 295, as introduced, to authorize the existing 20 mills *ad valorem* tax to school years 2023-2024 and 2024-2025;

- Add language to expand school district eligibility for the cost-of-living weighting and increase the limitation on the amount that can be levied; and
- Insert section 118 of HB 2273 to require a demand transfer for the School District Capital Improvements Fund starting in FY 2024.

HB 2060 (Special Education and Related Services Funding Task Force)

The bill was introduced by the House Committee on K-12 Budget at the request of Representative K. Williams.

House Committee on K-12 Education Budget

In the House Committee hearing, a representative of the Kansas Association of School Boards provided neutral testimony generally supporting the bill but identifying concerns with the makeup of the Task Force.

Written-only neutral testimony was provided by members of the State Board of Education.

Written-only **opponent** testimony was provided a member of the public.

No other testimony was provided.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on HB 2060 as introduced, Legislative Administrative Services estimates enactment of the bill would require an additional appropriation to the Legislature’s FY 2024 budget totaling \$20,331 from the SGF. KSDE indicates annual costs totaling \$5,500 would be borne by the agency for staff time. Any fiscal effect associated with enactment of HB 2060 is not reflected in *The FY 2024 Governor’s Budget Report*.

HB 2030 (Nonpublic School Student Participation in KSHSAA Activities)

HB 2030 was introduced by the House Committee on K-12 Education Budget at the request of Representative Johnson.

House Committee on K-12 Budget

In the House Committee hearing on January 24, 2023, **proponent** testimony was provided by representatives of Americans for Prosperity; Kansas Policy Institute; Kansas Family Voice; and Yes, Every Kid; and six private citizens generally in support of the bill.

Opponent testimony was provided by representatives of the Central Kansas League of Superintendents, Kansas Association of Independent and Religious Schools, Kansas Association of School Boards, Kansas State Board of Education, Kansas State High School

Activity Association, and the Kansas State Parent Teacher Association. No other testimony was provided.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget, enactment of HB 2030 would have no fiscal effect.

HB 2261 (Compensating School Board Members)

HB 2261 was introduced in the House Committee on K-12 Education Budget at the request of Representative Schmoie.

House Committee on K-12 Budget

In the House Committee hearing on February 14, 2023, neutral testimony was provided by former Representative Jim Karleskint on behalf of the United School Administrators of Kansas generally supporting school administration working closely with the local board of education.

No other testimony was provided.

Fiscal Information

According to the Division of the Budget, the enactment of HB 2261 would not change state aid to school districts. Any fiscal effect of HB 2261 would be borne by districts that would choose to compensate board members. KSDE notes that if all 286 school districts were to compensate each board member (seven per board) at \$20 per hour for approximately 71 hours of work each year, the total cost would be \$2.8 million for school districts.

HB 2040 (Current Year Enrollment and School Finance Formula)

HB 2040 was introduced by the House Committee on Education at the request of Representative Thomas.

House Committee on Education

In the House Committee hearing on January 24, 2023, **proponent** testimony was provided by representatives of the Kansas Association of School Boards, United School Administrators of Kansas, USD 230 Spring Hill, USD 231 Gardner Edgerton, and USD 323 Rock Creek generally in support of the bill.

Written-only proponent testimony was provided by representatives of USD 216 Deerfield, USD 232 De Soto, and USD 250 Pittsburg in general support of the bill.

Written-only **opponent** testimony was provided by a representative of the Kansas Policy Institute, generally supporting the current year enrollment but objecting to not excluding previous year enrollment counts.

Fiscal Information

According to KSDE, using data from the FY 2023 school year, the enactment of HB 2040 would require additional SGF expenditures totaling \$19,911,290. Of this amount, \$17.5 million would be for State Foundation Aid and \$2.4 million would be for the Local Option Budget State Aid. The fiscal effect for FY 2024 would depend on the actual number of students enrolled in that year.

SB 295 (Continuing the 20 Mill Statewide Levy for Schools)

The bill was introduced by the Senate Committee on Ways and Means at the request of Senator Pettey.

Senate Committee on Ways and Means

In the Senate Committee hearing on March 15, 2023, **proponent** testimony was provided by a representative of the Kansas National Education Association, who stated the public school system depends on the renewal of the 20 mills.

Written-only **opponent** testimony was provided by a representative of Americans for Prosperity, who stated opposition to property tax increases.

No other testimony was provided.

Fiscal Information

According to the Division of the Budget, revenues from the 20 mill property tax, including authorized exemptions, that would assist financing State Foundation Aid payments in the school finance formula, are estimated to be \$799.1 million in FY 2023, \$811.5 million in FY 2024, and \$812.3 million in FY 2025, as estimated during the fall 2022 Education Consensus Estimating process. [Note: These estimates were updated by the spring 2023 Education Consensus Estimating process as follows: \$792.0 million in FY 2023 (a decrease of 7.1 million from the fall estimate); \$845.8 million in FY 2024 (an increase of \$34.3 million from the fall estimate); and \$819.9 million in FY 2025 (an increase of \$17.6 million from the fall estimate).]

Appropriations; K-12 budget; school districts; students; special education task force; open enrollment; 20 mill levy extension; school district cost-of-living adjustment; Kansas School Equity and Enhancement Act; low-income student scholarships; high density at-risk; sunset

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