

SESSION OF 2014

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE SUBSTITUTE FOR SENATE BILL NO. 218**

As Agreed to April 5, 2014

Brief*

House Sub. for SB 218 House Sub. for SB 218 would make appropriations for both K-12 and higher education. The bill also would make a number of policy revisions, mostly for K-12 education. Its provisions are described below.

Higher Education

Appropriations

The bill would add \$169,698, all from the State General Fund (SGF), for the Municipal University Operating Grant in FY 2014. The bill would add \$17.4 million, all from the SGF, although there is shift of approximately \$18.0 million from special revenue funds to SGF for FY 2015. The bill would restore funding of \$2.1 million SGF for the tiered technical formula to community and technical colleges; add \$1.9 million SGF for the GED accelerator program; add \$169,698 SGF for the Municipal University Operating Grant; add \$316,853 for the KAMS Summer Academy; and add \$500,000 SGF for training and equipment for Wichita State University. The bill would delete funding for longevity in those universities that will have no classified employees after July 1, 2014, and the Governor's 1.5 percent salary pay increase for classified employees in the Board of Regents for FY 2015.

*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/kldr>

The bill also would add bonding authority to Fort Hays State University for the construction of a new Weist Hall, Kansas State University chiller plant expansion, the University of Kansas earth, energy, environment center, and additional bonding authority, in the amount of \$25.0 million for FY 2015, to the University of Kansas Medical Center for the health education building.

Sale of Property

The bill would authorize the Kansas Board of Regents, on behalf of Emporia State University (ESU), to sell or exchange with the ESU Foundation certain real estate commonly known as Emporia State University Apartments. The bill would allow for an exchange of the apartments with land the ESU Foundation is acquiring closer to the campus than the apartments' current location.

The bill would authorize the University of Kansas (KU) and the KU Endowment Association to exchange two parcels of property. The parcels have been appraised and the boundaries have been defined such that the two parcels are equal in value.

Midwestern Higher Education Compact

The bill would repeal the expiration provision of the Midwestern Higher Education Compact Act.

Performance-Based Funding

The bill would provide payments by the Board of Regents to postsecondary educational institutions that have provided any of the following to an individual enrolled in the institution:

- Receipt of a GED credential while enrolled in an eligible career technical education (CTE) program;
- Receipt of a CTE credential; or
- Enrollment in an eligible CTE program.

K-12 Education

Appropriations

The bill would appropriate an additional \$112,265,000 for Supplemental General State Aid (local option budget equalization aid) and would make a revenue transfer of \$25,200,786 to the Capital Outlay Fund from the SGF. Changes in the school finance formula, described below, result in a decrease in various weightings with associated decreases in education funding. In addition to these decreases, the bill would make additional adjustments totaling \$129.2 million from the SGF.

Policy Statement

The bill would state the purpose and intention of the Legislature is to provide a K-12 funding system that provides students with the seven “Rose” capacities. [Staff Note: These capacities, originally set out in *Rose v. Council for Better Education, Inc.*, 790 S.W.2d 186 (Ky. 1989), were held by the Kansas Supreme Court in *Gannon v. State of Kansas* to be the standards against which to evaluate the adequacy of the K-12 funding system.] The funding system would have to be sufficiently flexible for the Legislature to consider and use financing methods from all available resources, such as the following:

- Federal funding to school districts or schools;

- State moneys appropriated for the improvement of public education. The bill includes a list of examples of such state funding sources;
- Any provision authorizing local tax levies for school funding purposes; or
- Any transfer of funds or appropriations from one object or fund to another approved for the purpose of funding public schools.

Phase-Out of the School Facilities Weighting

The bill would limit use of the school facilities weighting to only those districts that have adopted a local option budget (LOB) of at least 25 percent of the amount of state financial aid for which and 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 would eliminate 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 state board on either the mathematics or reading state assessments in the preceding school year.

Change in Definition of At-Risk Pupil

The bill would exclude from the definition of at-risk pupil: any pupil enrolled less than full time in grades one 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

The bill would do the following:

- Amend the statutory Base State Aid Per Pupil (BSAPP) used in calculating the local option budget from \$4,433 to \$4,540 for school year 2014-2015 only. (The current base state aid of \$4,433 for LOB calculation purposes would be extended until June 30, 2017.)
- Exclude virtual school state aid from the amount of state financial aid used in calculating the local option budget.
- For school year 2014-2015, any school district which has adopted a local option budget in excess of 30 percent on or before June 30, 2014, may adopt a second resolution in an amount not to exceed 2 percent. This resolution would expire on June 30, 2015, at which time a mail ballot election would be required to exceed an LOB of 30 percent.
- Authorize USD 207, Ft. Leavenworth, to adopt an LOB in excess of 30 percent with a resolution, subject to protest petition.

K-12 Student Performance and Efficiency Commission

The bill would establish the K-12 Student Performance and Efficiency Commission, charged with studying and making recommendations to the Legislature regarding opportunities to make more efficient use of taxpayer money and, in particular, study the following areas:

- Opportunities for school districts to be operated in a cost-effective manner;

- Variances in per-pupil and administrative expenditures among districts with comparable enrollment, demographics, and statewide assessment outcomes;
- Opportunities for implementing recommendations made by any efficiency task forces established by the Governor prior to July 1, 2014;
- Administrative functions that may be shared between school districts; and
- Expenditures not directly or sufficiently related to the goal of providing every child with the Rose capacities.

The bill would set forth the composition of the Commission, which would have nine voting and five nonvoting, *ex officio* members. Procedural, staffing, reimbursement, and vacancy provisions are included in the bill. The Commission's authority would expire on January 12, 2015.

The Commission would be required to submit a report to the Legislature before January 9, 2015, with any findings and recommendations including those for any legislation. The bill further would require that identical bills be introduced in the two chambers during the 2015 Legislative Session.

Alternative Teacher Licensure

The bill would require a specific group of prospective teachers be exempted from the requirement to complete a teacher preparation program prior to licensure if the licensure applicant satisfies one of the following conditions:

- The applicant holds a valid teaching license from another jurisdiction and has obtained the required

scores on the test series required by the State Board of Education (Board) for licensure.

- The applicant has obtained an industry-recognized technical profession certificate, has at least five years of work experience in that profession, and has secured a commitment to be hired to teach a related course from a local school district board.
- The applicant has obtained at least a bachelor's degree in science, technology, engineering, mathematics, finance or accounting; has at least five years of work experience in the subject matter area; and has secured a commitment to be hired to teach a related course from a local school district board.

Such licensure applicant would be authorized to teach only in the subject(s) specified on the face of the license.

Notice Regarding Protections under the Kansas Tort Claims Act

The bill would require each school district to provide a written notice to each employed teacher of protections afforded under the Kansas Tort Claims Act. The bill would specify the information that must be included in the notice.

Codification of Rose Capacities

The bill would revise KSA 2013 Supp. 72-1127 to eliminate a set of goals similar, but not identical, to the Rose capacities, and replace these goals with the exact language of the Rose capacities. The revised language would state the Board must design subjects and areas of instruction to achieve the goal established by the Legislature of providing every child with at least the following capacities:

- Sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization;
- Sufficient knowledge of economic, social, and political systems to enable the student to make informed choices;
- Sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation;
- Sufficient self-knowledge and knowledge of his or her mental and physical wellness;
- Sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;
- Sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and
- Sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.

Public Innovative District Ceiling Increase

The bill would increase the maximum percentage of Kansas school districts that may operate as Public Innovative Districts from 10 percent to 20 percent. The additional 10 percent of school districts would be authorized 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, deemed so *via* the

Elementary and Secondary Education Act Flexibility Waiver for Kansas. Any such request for approval must be reviewed by the Coalition Board.

Change in Statutory Base State Aid Per Pupil and Formula Definitions

The bill would change the statutory BSAPP from \$4,492 to an amount appropriated by the Legislature in a fiscal year for a designated school year. The amount will be required to be at least \$3,838.

Requirement to Study Virtual Schools and Programs

The bill would require the Legislative Division of Post Audit to conduct a performance audit of virtual schools and programs as well as their funding.

Renewal of Capital Outlay Authority

The bill would provide a school district with the authority to renew its capital outlay tax levy prior to the expiration of its existing capital outlay levy.

Kansas Uniform Financial Accounting and Reporting Act Changes

The bill would amend the definition of “budget summary” to be a one-page summary. Additionally, the bill would require publications of the financial accounting information collected under current law to be made available to the public at every board of education meeting at which the district’s budget or other school finance matters are discussed.

Due Process Rights of Teachers

The bill would amend the law concerning due process procedures for the termination of a teacher contract. In the act governing due process procedures, the bill would strike from the definition of “teacher”—any professional employee who is required to hold a certificate to teach in any school district. Instead, the bill would define “teacher” as any teacher or instructor in any technical college, the Institute of Technology at Washburn University or community college. “Teacher” would not include any persons employed in an administrative capacity by any technical college, community college, or the Institute of Technology at Washburn University. However, for the purposes of the section in that act governing the renewal of a teacher’s contract absent written notice to terminate the contract, “teacher” would include any professional employee who is required to hold a certificate to teach in any school district. This narrowing of the definition of “teacher” for the act as a whole would make the due process procedures inapplicable to such professional employees. The bill would make technical amendments to conform with that change and would strike provisions exempting certain teachers from due process procedures and concerning plans of assistance for teachers who have completed at least three years of employment. The bill also would amend provisions of the law concerning the mentor teacher program to revise the definitions of “probationary teacher” to mean a certificated teacher who has completed less than three consecutive school years of employment in the school district.

Education Fairness Property Tax Relief Act

The bill would provide *ad valorem* tax relief to parents of a child between the ages of 6 and 18, who was not enrolled in a Kansas public school during a preceding calendar year and was educated in a private school registered with the State Board of Education. Parents would be eligible for property tax relief not exceeding \$1,000 per calendar year per child or \$2,500 per family, nor exceeding the property tax accrued.

Upon submission of allowable education expense documentation to the Department of Revenue, the property tax would be reduced. (This would apply only to property tax levies imposed by a local school district.) Allowable education expenses would include tuition, fees, books, equipment, and supplies relating to the child's education outside the public education system. This provision would be effective upon publication in the Kansas Register.

Tax Credit for Low Income Students Scholarship Program Act

The bill would create the Tax Credit for Low Income Students Scholarship Program Act (Act), which would provide eligible students with scholarships to pay all or a portion of tuition to attend a qualified school in Kansas.

Scholarship Eligibility

An "eligible student" would be a child who:

- Qualifies as an at-risk pupil (eligible for free lunch under the National School Lunch Act); and
- Attends a school that would qualify as either a Title I Focus School or a Title I Priority School; or
- Received an educational scholarship under this program and has not graduated from high school or reached 21 years of age.

Eligible students would be required to:

- Reside in Kansas while receiving a scholarship; and

- Be enrolled in a public school in the year prior to receiving the scholarship or be eligible to be enrolled in a public school, if under the age of six.

Tax Credits

The scholarship would 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 percent of the amount contributed for scholarships. The credit would be claimed and deducted from the taxpayer's tax liability during the tax year in which the contribution was made. However, if the credit would exceed the donor's tax liability for a particular year, the excess amount could be carried over in future years until the total credit was used.

The total amounts of credits allowed in each tax year would not exceed \$10.0 million.

Scholarship Granting Organizations

The bill would create a scholarship granting organization (SGO) to administer the Act. The SGO would be required to provide verification to the Secretary of Revenue of the SGO's federal income tax exemption *via* section 501(c)(3) of the federal Internal Revenue Code. The SGO would be required to disburse not less than 90 percent of the contributions received within a 36-month time period in educational scholarships not to exceed \$8,000 per eligible student. Allocation of the tax credits would be determined by the SGO in consultation with the Secretary of Revenue.

Applications for a scholarship would be made to the SGO, which would be required to verify students meet the eligibility criteria of the bill and report that information [which eligibility criteria the student met] to the State Board of Education (State Board) by June 1 of each year. Other

information required to be reported to the State Board includes name and address of the SGO and of each scholarship recipient, and the total number and amount of contributions and scholarships received and awarded during a 12-month period.

Each SGO would be required to have its accounts examined and audited by a certified public accountant annually. An SGO having contributions in excess of \$50,000 during a school year would be required to provide a surety bond to the State Board or financial information demonstrating an ability to pay an amount equal to contributions received.

An SGO would be responsible for ensuring schools receiving scholarships comply with the Corporate Education Tax Credit Program requirements.

Finally, an SGO would be prohibited from providing an eligible student with a scholarship funded by a student's relative or accepting a contribution directed toward a specific student.

Qualified Schools

The bill would provide eligible students with an opportunity to attend qualified schools chosen by their parents. "Qualified school" would be defined as any nonpublic school providing education to elementary and secondary students. The school would be required to notify the State Board of its intention to participate in the scholarship program.

The provisions of the Tax Credit for Low Income Students Scholarship Program Act would be effective upon publication in the Kansas Register.

Conference Committee Action

Senate conferees accepted the school finance formula changes in House Sub. for SB 218, that included eliminating part-time students in grades one through 12 in the definition of at-risk pupils and the elimination of the nonproficient weighting. Senate conferees accepted the House position regarding the local option budget calculation with an exception regarding increasing the Base State Aid Per Pupil for LOB calculations to \$4,540. Senate conferees agreed this provision would be in effect for only one school year, 2014 - 2015.

Further, House conferees agreed to accept and insert the following provisions from Senate Sub. for HB 2506, including changes in the due process rights of K-12 teachers in public schools, establishment of the Education Fairness Property Tax Relief Act, and the Corporate Education Tax Credit Scholarship Program Act.

The Conference Committee agreed to eliminate provisions related to the SUCCESS Act and the Go Pro Now Program.

The Conference Committee also agreed to give the University of Kansas Medical Center bonding authority of \$25.0 million for the health education building for FY 2015.

In addition, the Conference Committee agreed to change the name of the \$5.0 million State General Fund research funding for Kansas State University to the Global Food Systems Research program.

Background

SB 218, as introduced during the 2013 Session, dealt with reauthorizing the Judicial Branch surcharge. In 2014, the House Appropriations Committee deleted those contents and replaced them with the current education-related provisions and appropriations.

The bill had a hearing with several opponents of the revisions to the virtual student weighting appearing in person or providing written testimony. Those opponents included representatives of Basehor/Linwood, Elkhart, Maize, Goddard, Louisburg, Independence, and Springhill School Districts; Clayton Christensen Institute; Insight School of Kansas; Kansas Connection Academy; Kansas Virtual Schools; K-12 On-line Learning; Goddard; and United School Administrators. Several parents of students in virtual schools presented opponent testimony. A representative of the Kansas National Education Association also appeared as an opponent. Those presenting neutral testimony were representatives of Kansans for Liberty, the Kansas Association of School Boards, the Kansas Coalition for School Readiness, the Kansas Policy Institute, and the Wichita School District and a private citizen.

The House Committee of the Whole made a technical amendment that increased the appropriation for supplemental general state aid by \$3,200,000. This is a technical change to reflect the Committee's intent.

No fiscal note was provided by the Division of the Budget.

Background—Senate Sub. for HB 2506

HB 2506, as introduced, would repeal a statute relating to the Midwest Higher Education Compact Act. There was no hearing on the original bill. Following its passage in the House, the bill was referred to the Committee on Ways and Means. The Senate Committee recommended a substitute bill that includes the original bill and incorporates provisions from several other bills. The bills are described below.

SB 452 (School Finance Formula)

SB 452, introduced in the Committee on Ways and Means, contained several adjustments to the school finance

formula. The Senate Ways and Means Committee inserted the higher education and K-12 education appropriation provisions into the bill, as well as several education-related policy provisions described above.

The bill had a hearing with several opponents of the revisions to the virtual student weighting. Those opponents

HB 2396 (ESU, KU, Surplus Real Estate)

HB 2396 was introduced by the House Appropriations Committee. A representative of the Department of Administration testified in support of the bill at the House General Government Budget Committee hearing, noting that the Legislative Division of Post Audit made several recommendations about the State Surplus Property Program, including the recommendation to give the Secretary of Administration sole authority in designating surplus state property.

The House Committee of the Whole amended the bill to insert the contents of HB 2021 and HB 2071. HB 2021 was introduced by the Legislative Educational Planning Committee as part of the Board of Regents legislative package. Proponent testimony was provided by representatives of ESU. Representative Mast also testified as a proponent of the bill. There were no opponents.

HB 2071 was introduced by the Legislative Educational Planning Committee at the request of the Board of Regents. The Chief Business and Financial Planning Officer of KU testified as a proponent of the bill, stating KU has a piece of property that was purchased with parking funds and currently contains a parking garage that the University wants to exchange for a piece of property owned by the KU Endowment Association that currently is used as a parking lot.

SB 429 (Performance-Based Funding)

At the Senate Committee on Ways and Means hearing on SB 429, related to performance-based funding, proponents included representatives of Goodwill Industries, the Kansas Association of Community Colleges, Kansas Board of Regents, and Kansas Association of Technical Colleges. There were no opponents.

The fiscal note on the bill indicated that when certifications are received by the Board of Regents, payment would be calculated and distributed subject to appropriation.

SB 427 (Go Pro Now Program)

[The contents of SB 427 were not included in the Conference Committee Report for House Sub. for SB 218.]

SB 434 (SUCCESS Act)

[The contents of SB 434 were not included in the Conference Committee Report for House Sub. for SB 218.]

Education, postsecondary education, taxation, employment, state finance

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