

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

As Agreed to April 6, 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; make adjustments to the Kansas School Equity and Enhancement Act (KSEEA); and amend various provisions of law related to K-12 education.

The bill would increase student eligibility and tax credits for the Low-income Students Scholarship program, require school districts to post certain academic and enrollment information on the districts website, and authorize certain nonpublic students to participate activities regulated by the Kansas High School Activities Association.

The bill would also extend the 20 mill exemption for two years and provide for the disposition of school district real property giving 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 \$11.4 million from the State General Fund (SGF) for Kansas Public Employees Retirement System (KPERS) school employer contributions of Unified School Districts (USDs);
- Delete \$6.5 million SGF from the KPERS non-USDs account; and
- Delete \$76.3 million from State Foundation Aid.

*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>

For KSDE, the bill would appropriate \$6.4 billion, including \$4.2 billion SGF. This amount includes \$5.3 billion, including \$4.2 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;
- \$87.9 million for State Foundation Aid;
- \$400,000 for Supplemental State Aid;
- \$80,000 for the Center for READING;
- \$32.0 million for KPERS non-USDs;
- \$537.4 million for KPERS-USDs;
- \$2.8 million for the ACT and WorkKeys Assessments Program;
- \$10.5 million for the Mental Health Intervention Team Pilot Program;
 - Include proviso language, as included in previous years, to establish the program and grant requirements for the Mental Health Intervention Team Pilot Program.
- \$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 allow 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 also add language requiring 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;
- \$602.6 million for Supplemental State Aid; and
- \$520.4 million for Special Education Services Aid.

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

Special Education and Related Services Task Force

The bill would also provide for creation of the Special Education and Related Services Task Force (Task Force) for FY 2025 in a proviso. The Task Force would be required to study and make recommendations for changes in the existing state funding formula for special education and related services.

Organization of Task Force

Membership. The Task Force would consist of the following 11 members:

- Two members to be appointed by the Speaker of the House;
- Two members to be appointed by the President of the Senate;
- One member to be appointed by the Minority Leader of the House;
- One member to be appointed by the Minority Leader of the Senate;
- One member to be appointed by the State Board of Education;

- Three members to be appointed by KSDE, including two members who are professionals in the field of special education and related services and one professional in early childhood development and provides services for a tiny-K program; and
- One member who is a parent of a student who receives special education services. The appointment would be for one year and alternate between the Speaker of the House and the President of the Senate.

Task force leadership. Under the bill, the Speaker of the House would designate one of the Speaker's appointments to call the first meeting of the Task Force.

Compensation

The bill would provide that Task Force members attending meetings authorized by the Task Force would receive compensation, subsistence allowances, and mileage, and other expenses as provided under KSA 75-3223.

The bill would also allow the KSDE, in consultation with the Legislative Coordinating Council, to establish the Task Force if the Legislature does not take action to revise the Special Education State Aid funding formula during the 2024 Legislative Session.

[*Note:* A similar task force would be established by proviso in FY 2024 in the Conference Committee Report for House Sub. for SB 83.]

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 create requirements that would grant the Legislature the right of first refusal. The bill would create a notification process of a school district board of education's intentions to dispose of a school building as follows.

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 notice would be required 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 separate requirements for the Legislature's review, accounting for the timing of the legislative 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 that would be required 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.]

Parent Portal (New Section 7)

The bill would require school districts to create a parent portal on the school district website and update the information annually. As an administrative duty, the school district would be required to include the following information to be posted on the parent portal:

- The number of nonresident student transfers approved, denied, and whether denial was due to capacity limitations or district policies;
- A copy of all academic tests, questionnaires, surveys, or examinations as required by law; and
- A list of the school district's adopted curriculum, organized by grade level, including textbooks, required reading books, and units of study by theme, chapter, or subject matter. A school district would only be required to post such information once per school year, unless the board of education of the school district makes substantial changes to the school district's adopted curriculum content during the school year. The bill would specify that this would not be construed to require the posting of teacher lesson plans.

Compensating School Board Members (Section 8)

The bill would amend KSA 72-1137 to allow school districts to compensate members of local boards of education for the work and duties performed by such members.

Amending Nonresident Enrollment (Sections 9-10)

The bill would amend KSA 72-3123 to permit nonresident direct enrollment, beginning in school year 2024-2025, for students of school district employees and students experiencing homelessness. The bill would also amend KSA 72-3126 to 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 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.

Kansas School Equity and Enhancement Act—Amendments (Section 14)

The bill would make several amendments to the Kansas School Equity and Enhancement Act (KSEEA) concerning the formula used to calculate BASE aid, enrollment, and calculation of State Foundation Aid, and specific weightings related to school district building closures.

The bill would change the formula used to calculate the BASE aid increase to use the average of the Midwest Consumer Price Index - Urban inflation during school years 2020-2021, 2021-2022, and 2022-2023 times \$4,846 rounded to the nearest dollar and removes the ongoing increase.

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.]

Finally, the bill would modify the low enrollment and high enrollment weightings for school districts that attaches territory of a disorganized school district or accepts students in the current year that 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 amend KSA 72-5142 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 reduce the percentage of the statewide average residential home value required to be eligible for the cost of living weighting from 125 percent to 115 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 Capital Improvements (Section 17)

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:

- 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;
- Delete \$72.4 million SGF for Special Education State Aid for FY 2025;
- Add language to give priority to military students to enroll, subject to capacity, without using the open seat lottery;
- Add proviso language to continue the Task Force on Special Education and Related Services for FY 2025;
- 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 activities regulated by the KSHSAA;
- Require school districts to post certain academic and enrollment information on the district's website;
- Make several amendments to the KSEEA concerning the formula used to calculate BASE aid, enrollment and calculation of State Foundation Aid, and low enrollment and high enrollment weightings related to school district building closures; and
- Increase student eligibility and tax credits 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 Conference Committee.

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 state aid is included in House Sub. for SB 83];
- 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 adopted 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.

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.]

HB 2444 (MHIT Program)

HB 2444 was introduced by the House Committee on K-12 Education Budget at the request of Representative Landwehr.

House Committee on K-12 Budget

In the House Committee hearing on March 8, 2023, **proponent** testimony was provided by representatives of the Association of Community Mental Health Centers, Central Kansas Mental Health Center, COMCARE of Sedgwick County, Family Service and Guidance Center, Kansas State Board of Education, USD 233 Olathe, USD 305 Salina, and Wichita Public Schools generally the supporting the bill and the coordination of services it provides.

Neutral testimony was provided by the Behavioral Health Association of Kansas, the Kansas Association of School Boards, and the Shawnee Mission School District.

Opponent testimony was provided by the Community Health Center of Southeast Kansas (CHCSEK). The CHCSEK conferee noted that the bill would limit partnership to community mental health centers, and the organization would prefer to see language including any community based mental health provider.

The House Committee amended the bill to require KSDE to prepare and submit a report to the Legislature regarding the program each year.

Fiscal Information

According to KSDE, the codification of the MHIT Program would be accomplished within existing resources. The Division of the Budget notes that expenditures totaling \$10.6 million SGF in FY 2023 are recommended for the 66 school districts currently participating in the MHIT Program. For FY 2024, the Governor includes base MHIT funding totaling \$10.5 million for 66 participating school districts, plus an additional \$3.0 million to allow for the expansion of between 15 and 25 additional school districts, depending on the size of the districts and programs, for a total of \$13.5 million, all from the State General Fund.

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 Division of the Budget, enactment of HB 2030 would have no fiscal effect.

HB 2271 (Parent Portal, Nonresident Enrollment)

HB 2271 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 February 14, 2023, **proponent** testimony was provided by a representative of the Kansas State Parent Teacher Association in support of the bill.

Neutral testimony was provided by representatives of USD 262 Valley Center Schools and Kansas National Education Association. No other testimony was provided.

Fiscal Information

According to the Division of the Budget, the enactment of HB 2271 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 Schmoe.

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 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 (LOB) 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)

Senate Committee on Ways and Means

SB 295 was introduced in the Senate Committee on Ways and Means and is scheduled to have a hearing in the future.

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.

Appropriations; K-12 budget; school districts; students; special education task force; open enrollment; 20 mill levy extension; school district COLA; Kansas School Equity and Enhancement Act; Low-income student scholarships

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