

**THIRD CONFERENCE COMMITTEE REPORT BRIEF  
SENATE BILL NO. 387**

As Agreed to April 5, 2024

**Brief\***

House Sub. for SB 387 would make appropriations for the Kansas State Department of Education for FY 2024, FY 2025, and FY 2026; make adjustments to the Kansas School Equity and Enhancement Act (KSEEA); establish the Education Funding Task Force; repeal authorization for the Special Education and Related Services Funding Task Force; and amend various provisions of law related to K-12 education.

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

***Appropriations for FY 2024, FY 2025, and FY 2026 (New Sections 1–3)***

The bill would make appropriations for the Kansas State Department of Education (KSDE).

***FY 2024***

For KSDE, the bill would:

- Lapse \$714,470 from the State General Fund (SGF) from the Kansas Public Employees Retirement System (KPERs) non-USDs account;
- Lapse \$341 SGF from the KPERs USDs account;
- Lapse \$81.9 million SGF from the State Foundation Aid account;
- Lapse \$14.6 million SGF from the Supplemental State Aid account;
- Lapse \$40,000 SGF from the Career Technical Education Pilot account;
- Lapse \$300,000 SGF from the Juvenile Transitional Crisis Center Pilot account; and
- Add \$87,297 SGF to accommodate the pay plan shortfall.

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\*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>

With these changes, the appropriation for FY 2024 would be \$6.7 billion, including \$4.6 billion SGF.

#### *FY 2025*

For KSDE, the bill would appropriate \$6.6 billion, including \$4.9 billion SGF. This amount includes \$5.8 billion, including \$4.9 billion SGF, for the major categories of school finance, KPERS USDs, and KPERS non-USDs.

Appropriations from the SGF would include the following:

- \$15.2 million for operating expenditures;
- \$80,000 for the Center for READING;
- \$25.2 million for KPERS non-USDs;
- \$506.3 million for KPERS USDs;
- \$2.8 million for the ACT and WorkKeys Assessments Program;
- \$1.5 million for Career and Technical Education Transportation;
- \$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;
- \$5.1 million for School District Juvenile Detention Facilities and Flint Hills Job Corps Center Grants;
- \$2.5 million for school food assistance;
- \$2.0 million for the Virtual Math Education program;
- \$1.3 million for the Mentor Teacher program;
- \$110,000 for Educable Deaf-Blind and Severely Handicapped Children's Program Aid;
- \$65.5 million for Special Education Services Aid;
- \$360,693 for the Governor's Teaching Excellence Scholarships and Awards;
- \$29.6 million for State Foundation Aid;
- \$1.8 million for Professional Development State Aid; and
- \$1.0 million for the Computer Science Education Advancement Grant.

The bill would also appropriate funding from fee funds and several no-limit special revenue funds, including federal funds. The bill would appropriate the following from the Children's Initiative 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;
- \$1.4 million for early childhood infrastructure;
- \$1.5 million for the Dolly Parton Imagination Library; and
- \$5.0 million for the Children's Cabinet Public-Private Partnership Pilot program.

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 SparkWheel program fund of KSDE;
- \$550,000 on March 30, 2025, and \$550,000 on June 30, 2025, 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 on July 1, 2025, to cover costs of driver's license programs conducted by community colleges;
- \$70,000 from the Universal Service Administrative Company (USAC) E-rate Program Federal Fund of the State Board of Regents to the Education Technology Coordinator Fund of KSDE; and
- All moneys from the Communities in Schools program fund to the SparkWheel program fund, on July 1, 2024. All liabilities of the Communities in Schools program fund would be transferred to the SparkWheel program fund, and the Communities in Schools program fund would be abolished. [Note: Statutory provisions would be updated to reflect this change of reference; see Section 19.]

The bill would appropriate \$276,533 from the Kansas Endowment for Youth (KEY) Fund for the administration of the Children's Cabinet.

The bill would authorize the Commissioner of Education to transfer any part of an SGF appropriation for KSDE to another SGF appropriation for KSDE for FY 2025.

The bill would also appropriate \$42.8 million from the Expanded Lottery Act Revenues Fund (ELARF) for KPERS non-USDs.

### *Additional Provisions Regarding Appropriations in FY 2025*

The bill would include proviso language directing certain FY 2025 expenditures.

The bill would add proviso language lapsing \$65.5 million SGF in Special Education State Aid on July 1, 2025, if the excess costs sections of the bill are not enacted into law. The bill would also add proviso language that the \$5.0 million CIF for the Children's Cabinet public-private partnership is one-time funding.

The bill would provide that expenditures from the School Safety and Security Grants Fund for FY 2025 would be made for grants approved by the State Board of Education (State Board) for the acquisition of automated external defibrillators (AEDs) and routine AED maintenance, the acquisition and implementation of firearm software that meets certain criteria, and the purchase and installation of security cameras compatible with the specified firearm detection software. The bill would further provide that all moneys expended for these grants for FY 2025 must be matched on a dollar-for-dollar basis from other moneys of the school district.

### *FY 2026*

For KSDE, the bill would appropriate the following from the SGF:

- \$3.0 billion for State Foundation Aid;
- \$601.8 million for Supplemental State Aid; and
- \$601.0 million for Special Education State Aid.

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

### *Additional Provisions Regarding Appropriations in FY 2026*

The bill would include proviso language directing certain FY 2026 expenditures.

### ***Education Funding Task Force; Repeal of Special Education and Related Services Funding Task Force (New Section 4; Section 21)***

The bill would establish the Education Funding Task Force, which would be required to review several elements associated with the current school finance system and academic reporting and achievement goals and to report recommendations to the Governor and the Legislature on or before January 11, 2027, that provide for the establishment of a new school finance formula to replace the formula (Kansas School Equity and Enhancement Act [KSEEA]) that will expire on July 1, 2027. The bill would also repeal authorization for the Special Education and Related Services Funding Task Force.

### *Membership and Appointments*

The bill would establish the Education Funding Task Force (Task Force), which would be composed of the following 11 voting members:

- Two members of the House of Representatives appointed by the Speaker of the House of Representatives;
- One member of the House of Representatives appointed by the Minority Leader of the House of Representatives;
- Two members of the Senate appointed by the President of the Senate;
- One member of the Senate appointed by the Minority Leader of the Senate;
- One member of the State Board appointed by the State Board;
- One member who must be a parent of a K-12 student who attends a school district in Kansas, appointed by the Speaker of the House of Representatives;
- One member who must be a current or retired public school teacher, appointed by the President of the Senate;
- One member who must be a superintendent of a rural school district, appointed by the State Board; and
- One member who must be a superintendent of an urban school district, appointed by the State Board.

The bill would specify that any superintendent member of the Task Force would be permitted to designate another individual to attend any or all meetings of the Task Force as the member's designee.

**Ex officio, non-voting members.** The bill would also provide for four non-voting ex officio members of the Task Force:

- The KSDE Deputy Commissioner of Fiscal and Administrative Services or designee;
- The chairperson of the Kansas Children's Cabinet or designee;
- The Director of the Budget or designee; and
- The KSDE Director of Special Education and Title Services or designee.

### *Review of School Finance System*

The bill would require the Task Force to review the:

- Current school finance system in Kansas including, but not limited to, the KSEEA;
- Current methods for determining and disbursing Special Education State Aid;
- Inputs of the current school finance system, including, but not limited to, funding levels, funding sources, and funding impacts;

- Outputs of the current school finance system, including, but not limited to, academic achievement outcomes and other measures of student success;
- Current academic reporting requirements with respect to state assessments and student achievements; and
- Achievement goals established by KSDE in the Consolidated State Plan submitted to the U.S. Department of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, including, but not limited to, the goal to have 75 percent of all students and student subgroups achieve proficiency on the statewide assessments in English language arts (ELA) and mathematics by 2030, which has been defined by the State Board as requiring students to score in performance levels 3 and 4 combined on such assessments.

### *Reporting of Recommendations*

The bill would require the Task Force to prepare and submit a report to the Legislature and the Governor on or before January 11, 2027. The bill would require the report to include recommendations regarding:

- The establishment of a school finance formula that will replace the KSEEA after its expiration. When making such recommendations, the Task Force would be required to pursue the following goals for a school finance formula:
  - The formula shall be reasonably calculated to have all students meet or exceed the education goal established in KSA 72-3218(c) [*Note: Rose capacities*; this statute lists subjects and areas of instruction to be designated by the State Board to achieve the goal established by the Legislature to meet the graduation requirements adopted by the State Board];
  - The formula shall provide adequate, consistent, and reliable school funding;
  - The formula shall provide equitable school funding; and
  - The formula shall provide meaningful accountability measures;
- Whether revisions to the current methods for determining and disbursing Special Education State Aid are advisable or necessary; and
- Any other recommendations related to school finance.

### *Designation of Chairperson; Quorum; Meeting Information*

The bill would require Task Force members to be appointed on or before November 30, 2024. The bill would further require, in even-numbered years, the Task Force chairperson to be designated by the Speaker of the House of Representatives and the vice-chairperson to be designated by the President of the Senate. In odd-numbered years, the chairperson would be designated by the President, and the vice-chairperson would be designated by the Speaker. The bill would provide that any vacancy in the Task Force membership would be filled in the same manner prescribed for that member's original appointment.

The bill would state that a quorum for the Task Force is six voting members. All actions of the Task Force would be permitted to be taken by a majority of members present when there is a quorum. If the meeting is approved by the Legislative Coordinating Council (LCC), the Task Force members would be paid for expenses, mileage, and subsistence as provided in a statute governing board member compensation (KSA 75-3223(e)). The Task Force would be permitted to meet at any time and any place within the state upon the call of its chairperson.

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

The Task Force provisions of the bill would expire on July 1, 2027.

***Special Education Excess Costs; Determination and Formula (New Section 5; Sections 14, 16)***

The bill would amend and create law governing the excess costs formula for K-12 education Special Education State Aid by requiring school districts to transfer the funding attributable to the special education funding within the district's local option budget (LOB) to the district's special education and related services fund; determine each individual school district's excess costs, using the same calculation methodology as for statewide excess costs; report each school district's excess costs amount and publish these amounts on the KSDE website; and provide an annual report to the designated legislative committees on or before January 31 of each year detailing the individual school district's excess costs and how the Special Education State Aid will be distributed.

***Excess Cost Determination (New Section 5)***

The bill would create law requiring KSDE to determine each school district's excess costs before distributing Special Education State Aid. The process for determining each school district's excess costs would be the following:

- Calculate weighted full-time equivalent (FTE) students without At-Risk, Bilingual, Career Technical Education, Special Education, and Transportation weightings;
- Multiply the weighted FTE by BASE (base aid for student excellence);
- Divide this sum by unweighted FTE to find general education aid per student;
- Calculate Special Education FTE enrolled;
- Multiply the general education aid per student by the number of Special Education FTE;
- Multiply the product immediately above by the school district's LOB authority percentage;
- Add the two previous amounts together for total general education funding for Special Education students;

- Calculate federal aid for Special Education;
- Calculate Medicaid and state hospitals funding for Special Education students;
- Add total general education funding for Special Education students, federal aid, and Medicaid and state hospitals funding together for the total deductions;
- Calculate estimated special education and related services expenditures; and
- Subtract total deductions from estimated special education and related services expenditures to determine Total Excess Costs.

The bill would also direct the State Board to assign the costs of providing special education and related services by interlocal agreements or as members of cooperatives to each school district based upon the expenditures of a school district in comparison to the expenditures of all school districts within the interlocal or cooperative.

The bill would also require the State Board to annually:

- Report each school district's excess costs to the school district;
- Publish the excess costs determinations on the KSDE website; and
- Prepare and submit a report to the House Committee on K-12 Education Budget and Senate Committee on Education that includes school district excess costs and the Special Education distribution schedule.

*Determination of State Aid for the Provision of Special Education (Section 14)*

The bill would modify how statewide Special Education State Aid is determined as follows:

- Calculate weighted FTE student enrollment as provided on the Legal Max calculation from the KSDE without At-Risk, Bilingual, Career Technical Education, Special Education, and Transportation weightings;
- Multiply weighted FTE by BASE;
- Divide product by unweighted FTE to find general education aid per student;
- Calculate Special Education FTE enrolled;
- Multiply the general education aid per student by the number of Special Education FTE;
- Multiply the product by the statewide average LOB authority percentage;
- Add the two previous steps together for total general education funding for Special Education students;
- Calculate federal aid;



- Calculate Medicaid and state hospitals funding;
- Add total general education funding for Special Education students, federal aid, and Medicaid and state hospitals funding together for the total deductions;
- Calculate estimated Special Education expenditures;
- Subtract total deductions from estimated Special Education expenditures for Total Excess Costs; and
- Multiply total excess costs by 92 percent.

**Appropriation and distribution; maintenance of effort.** The bill would amend law governing Special Education State Aid and its computation to require the Legislature to appropriate at least \$601.0 million for special education for FY 2025 and every fiscal year thereafter. The bill would also require the State Board to distribute \$528.0 million, as was approved for FY 2024, based upon the statewide distribution system continuing in law and create an equalization distribution schedule for any Special Education State Aid appropriated above the \$528.0 million and distribute the difference under the State Board’s distribution system.

*Local Option Budget (Section 16)*

The bill would amend law governing School District State Aid and the LOB to require school districts to transfer a portion of their LOB fund to the district’s special education fund. This amount would be proportionally equal to the amount of the school district’s Total Foundation Aid that is attributable to the special education weighting.

***At-Risk Accountability Plan and Improvement Goals, Reporting (New Section 6; Sections 17–18)***

The bill would establish requirements for school districts, starting in school year 2024-2025 for school districts selected for a two-year pilot program and in 2026-2027 for all school districts, to establish at-risk student accountability plans and annually report on at-risk student performance and show longitudinal academic improvement for those students. The bill would also amend law governing a school district’s at-risk education fund and reporting to the State Board to require the State Board to publish an online at-risk best practices resource list instead of publishing a list of approved evidence-based best practices, remove authorization of at-risk funds for provisional at-risk programs, add and modify existing definitions including “above and beyond” and “evidence-based instruction,” require summary reporting to legislative committees, and prohibit the State Board from revising or updating the ELA or mathematics curriculum standards until the state meets the State Board’s goal of having 75 percent of all students score levels 3 or 4 on the ELA and mathematics assessments.

*At-Risk Accountability Plan (New Section 6)*

The bill would require each participating school district to create and annually submit an at-risk accountability plan to the State Board, starting in school year 2024-2025 for the pilot

program (and in school year 2026-2027 for the statewide program). The bill would require the plan to:

- Demonstrate the use of evidence-based instruction for at-risk students;
- Measure longitudinal academic progress in a quantitative manner;
- Establish and meet the quantitative student improvement goals for certain identified student cohort groups;
- Ensure that at-risk education fund moneys are expended in accordance with law by providing services above and beyond regular education services; and
- Continue the process of identifying certain student cohort groups (described below) and providing evidence-based instruction above and beyond that of regular education to such identified cohort groups until the school districts meet the State Board's goal of having 75 percent of all students score levels 3 or 4 on the ELA and mathematics state assessments.

### *Quantitative Measures*

The bill would require the quantitative measures approved by the State Board to only include the following:

- ELA and mathematics state assessments;
- A formative assessment approved by the State Board;
- A summative assessment approved by the State Board; or
- The ACT or ACT WorkKeys assessments.

### *Student Cohort Groups; Pilot Program*

The bill would require each participating school district, beginning in school year 2024-2025 for the pilot program (described below) and in school year 2026-2027 for all school districts (including those participating in the pilot program), to have two student cohort groups for its at-risk accountability program.

**Pilot program for select school districts; State Board of Education.** The bill would establish a two-year pilot program, commencing in school year 2024-2025, for ten school districts selected by the State Board for participation in the at-risk accountability plan program and cohort group metrics and reporting specified in the bill. The bill would require the State Board to select a diverse array of school districts with consideration given to a school district's size, location, student demographics, and level of staff participation and prior training in the science of reading.

Requirements for the cohort groups for both the pilot program and statewide program include:

- One cohort group would be in 3rd grade and an additional cohort group would be from any other grade K-8;

- One cohort group would be free lunch unless such cohort group is fewer than ten students, in which case another cohort group may be chosen;
- The other cohort group could be any cohort group used for state assessment purposes or at-risk students under the at-risk criteria;
- Each cohort group would have two, three, or four targeted supports or interventions chosen by the school district. The bill would require these supports or interventions to be chosen from the State Board's list of approved at-risk educational programs;
- Evaluations for the 3rd grade cohort group would be on two quantitative measures, one of which would be the ELA and mathematics state assessments and the other would be from the list of approved quantitative measures; and
- Evaluations for the other cohort group would be on two quantitative measures, one of which would be the ELA and mathematics state assessments if the grade will take the assessments, and the other would be from the list of approved quantitative measures. If no state assessments are being taken, the bill would require both measures to be from the list of approved quantitative measures.

*Longitudinal Study*

The bill would require each school district to conduct a four-year or five-year longitudinal evaluation of each cohort group in ELA and mathematics. Each school district would be directed to establish a quantitative goal for each cohort group and track the progress of the two cohort groups using state assessment scores and an additional goal chosen by the school district to determine whether the goals are being met or exceeded. Additionally, the school districts would not be able to revise the stated quantitative goals once set.

The bill would also require each school district to continue the practice of identifying cohort groups and providing evidence-based instruction to those cohort groups until the school district achieves the State Board's goal of having 75 percent of all students score a level 3 or 4 on the state assessments for ELA and mathematics.

*Failure to Achieve Stated Goals*

The bill would outline consequences for the failure to achieve the goals set by the school district. Beginning in school year 2030-2031, these consequences will include:

- If the cohort group did not meet or exceed the goals, the State Board would be required to deem the school district as not meeting at-risk improvement requirements on the district's at-risk student achievement report published on the State Board's website. This determination would remain until a new cohort group in the applicable starting grade level meets or exceeds the goals;
- If the cohort group did not meet or exceed the quantitative goals in the initial evaluation period, the school district would have one more year to further evaluate that cohort group's progress;

- If one cohort group fails to meet or exceed the goals at the end of the one additional school year, the school district would not be entitled to receive the full amount of state aid attributable to the at-risk and high-density at-risk weightings. Instead, the school district would receive half of the BASE aid increase plus the prior year's BASE aid amount for the at-risk and high-density at-risk weightings for funding purposes; and
- If both cohort groups fail to meet or exceed the goals at the end of the one additional school year, the at-risk and high-density at-risk weightings would use the prior year's BASE aid amount for funding purposes.

*Reporting by School Districts to the State Board of Education*

The bill would require each school district to annually report to the State Board the following information:

- The school district's at-risk accountability plan;
- Current progress on achieving the at-risk accountability plan;
- A report of the expenditures made from the school district's at-risk education fund, which must be submitted:
  - In school years 2024-2025 and 2025-2026 by the school districts participating in the pilot program; and
  - In school year 2026-2027 and each subsequent school year, by all school districts;
- An estimate of whether the school district expects to meet or exceed the longitudinal academic improvement goals established by the school district;
- The at-risk programs, services, resources, and targeted support and interventions from the list of approved programs that are used by the school district to provide evidence-based services above and beyond regular education services;
- The number of at-risk students identified and served; and
- The data and research the school district used to determine the at-risk programs and services.

The bill would also permit each school district to submit a narrative with the district's at-risk student achievement report.

For the statewide program, the bill would require the State Board to publish information reported by school districts on the KSDE website, underneath a link titled "accountability reports." Each school district would also be required to provide the individual school district's at-risk accountability plan on the school district's website.

*Reporting by the Kansas State Department of Education to the Legislature*

The bill would require KSDE to prepare and submit a summary of the reports from the school districts to the House Committee on K-12 Education Budget and Senate Committee on Education on or before January 31 each year.

*Expenditures of At-Risk Funding (Section 17)*

The bill would amend law pertaining to at-risk funding to require provisional at-risk programs to be subject to school district review while the program is implemented to evaluate whether the program is producing or is likely to produce measurable success and, if the program satisfies the State Board's requirements, it would be added to the list of approved at-risk educational programs.

The bill would further provide if the State Board removes any program or service from its list, a school district that is implementing such program or service may apply to the State Board to continue to make expenditures from the district's at-risk education fund to continue to implement such program or service. The bill would direct the State Board, when considering a district's application to continue such program or service, to require a district to demonstrate that either of the following improvements are directly attributable to the program or service:

- Academic improvement in either mathematics or ELA has occurred; or
- There has been an improvement in attendance, college and career readiness measures, or the education climate through a showing of a measurable decrease in detentions, expulsions, tardiness, or other behavioral issues that hinder student learning.

The bill would amend and establish definitions for terms including:

- "Above and beyond," to mean an at-risk education program or evidence-based instruction or practice that is provided in excess of regular educational services and based on the needs of students identified as at-risk and may provide a collateral benefit to students who are not identified as at-risk without any additional costs;
- "At-Risk educational program," to mean an at-risk program or service that is identified and approved by the State Board as providing evidence-based instruction to students who are identified as eligible to receive at-risk programs and services above and beyond regular educational services;
- "Evidence-based instruction," to mean an education delivery practice based on peer-reviewed research that consistently produces better student outcomes over a one-year period than would otherwise be achieved by the same students who are identified as eligible for at-risk programs and services; and
- "Provisional at-risk educational program," to mean an education delivery practice that is identified or developed by a school district as a program or service that is:
  - Provided to students who are eligible to receive at-risk programs and services above and beyond regular educational services;
  - Producing or is likely to produce better student outcomes;

- Subject to school district review to evaluate whether such program provides evidence-based instruction; and
- Placed on the State Board’s list of approved at-risk educational programs if the provisional at-risk educational program is shown to provide evidence-based instruction to students who are identified as eligible for at-risk programs and services.

### ***Maintaining Current ELA and Mathematics Standards (Section 18)***

The bill would amend statewide assessment law to prohibit the State Board from substantially revising or updating ELA or mathematics standards in effect as of July 1, 2024, in a manner that would require developing new statewide assessments in ELA or mathematics subject areas until the Board’s goal of having 75 percent of all students score a level 3 or 4 combined on the ELA and mathematics state assessments by 2030 is met.

### ***School District Open Enrollment, Priorities (New Section 7; Sections 9–12)***

The bill would create law supplemental to open enrollment provisions in the Kansas School Equity and Enhancement Act (KSEEA) to require school districts to give priority to non-resident students who reside in Kansas over non-resident students from another state, except in certain circumstances, provide for continued enrollment for non-resident students in a school district until the student graduates from high school, and amend the timeline for applications and responses by school districts to applying students.

The bill would also specify that neither the resident or receiving school district is responsible for transportation unless required by applicable law, exclude virtual schools from the open enrollment statutes, direct the Legislative Post Audit Committee to call for audits of non-resident student transfers only if certain committees request such audit, modify the definition of “non-resident student,” and require student transfer policy revisions to be published on a school district’s website.

### ***Non-resident Open Enrollment Priority***

The bill would require school district boards of education to prioritize non-resident students who reside in Kansas for open enrollment applications. If there are open seats in the school district after the Kansas non-residents have applied for a transfer, then students from outside Kansas would be permitted to apply for those remaining open spots. The bill would include an exception for students who are residents of other states: if a parent, or person acting as a parent, is employed by the school district, that student would be allowed to enroll and attend said school district without going through open enrollment.

The bill would also amend the open enrollment application period for the next school year to be between January 1 of the preceding school year and June 15th of such school year. It would also add July 30 of each school year as the last day for school districts to notify parents of the reason for non-acceptance or denial of a non-resident student.

The bill would also provide that any student enrolled as a non-resident in a school district during the school year 2023-2024 will be permitted to continue their enrollment and attendance in that school district as long as the student is deemed to be in good standing. Such students

would not be required to go through the lottery process to remain enrolled at the school district in the 2024-2025 school year. These provisions would apply to both students who are enrolled in schools outside their school district and for students who are enrolled in a different school within their school district instead of their school of residency in the 2023-2024 school year. The bill would also clarify that a non-resident student who is deemed to be not in good standing could be denied enrollment or continued enrollment in the school district.

Additionally, the bill would specify that neither the receiving or the resident school district of a non-resident student would be required to provide transportation to the student unless otherwise required by applicable law and would exclude virtual schools from the open enrollment requirements.

The bill would amend law requiring that the Legislative Post Audit Committee direct the Legislative Division of Post Audit (LPA) to conduct an audit of non-resident student transfers in calendar year 2027 to instead state the Legislative Post Audit Committee would direct LPA to perform this review in 2027 upon the request of the House Committee on K-12 Education Budget or the Senate Committee on Education.

The bill would also require student transfer policy and any revisions to the policy to be published on a school district's website. The bill also would change the definition of "non-resident student" to specify that it is a child of school age pursuant to school attendance requirements in law (KSA 72-3118) who resides in Kansas and wishes to attend a school located in a school district where the student is not a resident.

### ***School District Building Closure and Land Acquisition Process (Sections 8, 13)***

The bill would amend law governing the disposal of a school district building and the procedures and notification requirements on school district boards of education seeking to dispose of or sell a school district building. The bill would also modify the definition of a school "building."

#### ***Definition of Building***

The bill would define "building" to mean any building that was used in any prior school year as an attendance center for students enrolled in K-12.

#### ***Notice of Disposition; Legislature's Right of First Refusal***

**Legislative process.** Under current law, a school district is required to submit written notice to the Legislature when the school district intends to dispose of a school district building. If such notice is received during the regular legislative session, the Legislature has 45 days to adopt a concurrent resolution stating its intention for the State to acquire the building. When the Legislature is not in regular session, the law provides the Legislature has 45 days from the beginning of the next regular session to declare its intent. If the Legislature does not adopt a concurrent resolution within the applicable 45-day period, the school district is authorized to proceed with disposition of the building.

The bill would provide that when the Legislature is not in regular session, the LCC, within 45 days of receiving notice to the Legislature, may deny the legislative option specified in law to acquire the school district building. If the LCC denies the legislative option, the provisions pertaining to adoption of a concurrent resolution and a state agency's completion of acquisition of the building would not apply, and the school district would be permitted to proceed with disposing of the building in accordance with state law.

Further, if the LCC does not deny the legislative option within the 45-day period, the Legislature would have 45 days from the commencement of the next regular session to adopt a concurrent resolution as prescribed in continuing law.

**State agency acquiring the building pursuant to adopted concurrent resolution.** Under current law, if the Legislature adopts a concurrent resolution within the 45-day period, the state agency named in the resolution has 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 LCC is permitted to extend the 180-day period for a period of no more than 60 days.

The bill would provide when the Legislature does not adopt a concurrent resolution within the 45-day period or when the state agency does not take title to the property within the 180-day period (or its extension), the school district board may dispose of the property in such manner and upon such terms and conditions as the school board deems to be in the best interest of the school district.

#### *Disposition of School Buildings*

**Prohibition.** The bill would prohibit a school district board of education disposing of a building from refusing to sell, lease, or convey any interest in a building or property to a prospective buyer or lessee solely because the prospective buyer or lessee may use or intends to use the building or property as a nonpublic school building.

#### ***Full-Time Equivalent Enrollment in Virtual Schools; Virtual School State Aid Determinations; Adult Learners (Section 15)***

##### *FTE Equivalent and Enrollment*

Current law requires the following to be included in the definition of an FTE virtual student as follows:

- The student would be in attendance at the virtual school for a single school day on or before September 19 of the school year; and
- The student would be in attendance at the virtual school for a single school day on or after September 20 but before October 4 of the school year.

Current law also requires virtual schools to determine FTE enrollment of each student enrolled on September 20 of the school year as follows:



- Determine the number of hours the student was in attendance on a single school day on or before September 19 of the school year, using the day with the highest number of hours of attendance at the virtual school, not to exceed six hours;
- Determine the number of hours the student was in attendance on a single school day on or after September 20 of the school year, using the day with the highest number of hours of attendance at the virtual school, not to exceed six hours;
- Add the two numbers together; and
- Divide the sum by 12.

*Virtual School State Aid, Ages 19 and Under*

The bill would change the formula for determining Virtual Student State Aid as follows:

- Determine the number of FTE enrollment rather than the headcount of students enrolled in the virtual school, excluding those over the age of 19 who qualify for virtual school state aid and those who are 19 years or younger who qualify for virtual school state aid as a dropout diploma completion virtual student and multiply that FTE count by \$5,600;
- Determine the number of one-hour credit courses reported on the Kansas collection KCAN report for students who are 19 years or younger who qualify for virtual school state aid as a dropout diploma completion virtual student, not to exceed 6 hours for each student, and multiple the total by \$709; and
- Add the two amounts together to get Virtual Student State Aid.

For the purposes of funding, a virtual student who is a non-resident of Kansas would not be counted in the FTE enrollment of the virtual school. The bill would require the virtual school to record the permanent address of each student enrolled in the virtual school.

The bill would remove definitions for “full-time” and “part-time” applicable to virtual school students.

*Virtual School State Aid Determination—Adult Learners*

The bill would amend provisions of the Virtual School Act to establish additional requirements related to the determination of Virtual School State Aid for adult learners.

The bill would require the State Board, when determining Virtual School State Aid for certain adult students, to:

- Determine the number of one-hour credit courses reported on the Kansas collection KCAN report that students have passed to meet the minimum graduation requirements established by the State Board of the local school district board of education;

- Validate course completion using official student transcripts; and
- Multiply the total number of courses by \$709, not to exceed six credit courses per school year.

The bill would prohibit the State Board from deducting any Virtual School State Aid for adult students and dropout diploma completion students for courses completed by students in the school year that precedes the school year in which such state aid is determined. The bill would further provide that if the State Board does deduct any Virtual School State Aid, such deductions could only be made with respect to individual courses. The State Board would also be required to publish any audit methodology used to determine and verify Virtual State Aid entitlements on its website.

***Public School Financing System; Financing Resources (Section 19)***

The bill would update a reference in the statute governing the public school financing system that addresses appropriations to programs that provide individualized support to students enrolled in unified school districts and assist with achievement of the goal stated in the statute addressing accredited schools and mandatory subjects and areas of instruction and educational capacities (*Rose capacities*). The bill would modify one of the three examples of programs specified in the law to replace “Communities in Schools” with “SparkWheel.”

***Virtual School Participation in KSHSAA Activities (Section 20)***

The bill would permit a virtual student to participate in Kansas State High School Activities Association (KSHSAA) activities as long as the student:

- Is a resident of the school district;
- Is enrolled and attending a virtual school as defined in continuing law;
- Complies with health-related requirements (KSA 72-6262, and amendments thereto);
- Meets applicable age and eligibility requirements set forth by KSHSAA;
- Pays any fees required by the school district for participation in such activity; and
- Seeks to participate at the appropriate school within the school district corresponding to where the student resides.

***Enrollment***

A virtual student would not be required to enroll or attend a minimum number of courses at the resident school district unless the school district board has that requirement for all other students who participate in the activity.

The bill would also remove the July 1, 2023, sunset for provisions authorizing participation in KSHSAA activities by certain students.

## **Technical Amendments**

The bill would also make technical and clarifying amendments.

## **Effective Dates and Repealed Section (Sections 21-22)**

Sections 9 (open enrollment), 10 (technical changes), 11 (nonresident student policy), and 12 (definitions) and the repeal of KSA 72-3442 (abolishing the Special Education and Related Services Funding Task Force) would take effect upon publication in the *Kansas Register*.

On and after July 1, 2024, amendments to sections 8 and 13 (school building disposal), 14 (distribution), 15 (determination of Virtual School State Aid), 16 (LOB moneys transfer), 18 (State Board curriculum standards), 19 (public school financing), and 20 (virtual school participation) would take effect.

## **Conference Committee Action**

The third Conference Committee agreed to modifications to the prior conference committee report issued on House Sub. for SB 387. Those modifications include:

- Adjustments to FY 2025 appropriations and related provisions for KSDE, including:
  - Deleting \$9.5 million SGF for Special Education State Aid;
  - Deleting \$1.9 million SGF for Professional Development State Aid;
  - Deleting \$1.0 million SGF for the Mentor Teacher program;
  - Adjusting language requiring the lapse of \$65.5 million SGF in Special Education State Aid, if the excess costs sections of this bill are not enacted into law (the second Conference Committee Report would have lapsed \$75.0 million under the same criteria);
  - Deleting language specifying the use of \$1.9 million SGF for Professional Development State Aid be used by school districts for Science of Reading training or mathematics improvements and the use of \$1.0 million SGF for the Mentor Teacher program for funding for mentor teachers who have completed training in the Science of Reading and are mentoring teachers in grades K-5;
- Adjustments to FY 2026 appropriations include deleting \$9.5 million SGF for Special Education State Aid;
- Amendments to provisions governing Special Education State Aid and its computation to remove language that would have included all forms of state aid that are related to special education, including but not limited to, BASE aid for special education students, LOB funding that is calculated for the special education and related services, and LOB funding that is generated by such aid and grants;
- Further amendments to the provisions governing Special Education State Aid and its computation to update a reference from \$528.0 million to \$601.0 million to account for maintenance-of-effort requirements;

- Revisions to the at-risk accountability plan and reporting provisions for the pilot program, which include a two-year pilot program with the statewide program commencing in school year 2026-2027, and adjust reporting and cohort evaluation periods accordingly; and
- Removing an exemption for school district buildings for which the district received no capital improvement state aid from disposition of school building requirements.

## Background

The House Committee on K-12 Education Budget recommended a substitute bill incorporating provisions regarding appropriations for the Kansas State Department of Education (KSDE or Department) and K-12 education topics. As introduced, SB 387 pertained to certain open enrollment provisions; the House Committee replaced the contents of SB 387 with open enrollment provisions, as amended by the House Committee, contained in HB 2514.

The House Committee added KSDE budget provisions [notes below show only Conference Committee action on budget provisions; all other provisions have been retained] to:

- Add \$87,297 SGF for pay plan shortfall in FY 2024;
- Delete the Governor's step progression plan for increases in Special Education State Aid in both FY 2025 and FY 2026;
- Add \$77.5 million total for a one-time increase in base aid for Special Education State Aid for FY 2025. This includes adding \$75.0 million SGF and designating \$2.5 million American Rescue Plan Act (ARPA) funds, which were previously designated for the e-rate program within the agency;
- Add language lapsing the \$75.0 million SGF increase in Special Education State Aid on July 1, 2025, if the excess cost sections of the bill are not enacted into law [*Note:* The third Conference Committee changed this number to \$65.5 million SGF.];
- Delete \$30.0 million SGF for the Childcare Capacity Accelerator Grant for FY 2025;
- Delete \$4.0 million SGF for parallel test virtual state assessments for FY 2025;
- Delete \$3.0 million SGF for the Mental Health Intervention Team (MHIT) pilot program for FY 2025. This leaves a total of \$13.5 million appropriated for FY 2025 [*Note:* The second Conference Committee removed the MHIT program completely from the KSDE budget for FY 2025.];
- Delete \$815,000 CIF for the Incentives for Specialty Care program for FY 2025;
- Add language indicating the \$5.0 million SGF for the Children's Cabinet public-private partnership is one-time funding for FY 2025 [*Note:* The second Conference Committee changed the funding source from SGF to CIF funds.];
- Add language requiring school districts to use \$1.9 million SGF of Professional Development State Aid for Science of Reading training or mathematics improvements

for FY 2025; [Note: The third Conference Committee deleted the funding and the language.]

- Add language requiring \$1.0 million SGF of the Mentor Teacher Fund be used for funding mentor teachers who are targeting the Science of Reading in grades K-5 for FY 2025 [Note: The third Conference Committee deleted the funding and the language.]; and
- Add language requiring that the School Safety and Security Grants Fund only be used for a pilot program with ZeroEyes to add software to existing cameras to identify firearms within schools for FY 2025, require the State Board of Education to select the school districts for the pilot program, and require KSDE to submit a written report on the pilot program's progress to the House Committee on K-12 Education Budget and Senate Committee on Education by January 15, 2026. Additionally, delete current proviso language which states that school districts will match the grant \$1 for \$1 for FY 2025. [Note: The second Conference Committee replaced this language to authorize expenditures from the fund to be used for acquiring AEDs and routine maintenance of such devices, firearm detection software that fits specific requirements, and protection and installation of security cameras that are compatible with firearm detection software that fits the requirements specified by the Legislature. The second Conference Committee also added language to require a \$1 to \$1 match from school districts for School Safety and Security grants.]

[Note: Appropriations provisions included in this bill were originally contained in HB 2802.]

The House Committee further amended the bill to insert provisions:

- Clarifying the definition of "school district building" and the prescribed land acquisition process for building closures (HB 2489, as amended by House Committee);
- Permitting virtual school student participation in KSHSAA activities and modifying the FTE determination for Virtual School State Aid (HB 2506, as amended by House Committee);
- Pertaining to school district open enrollment to establish certain enrollment priorities and revised specified deadlines (HB 2514, as amended by House Committee);
- Establishing the Education Funding Task Force and providing for its scope and membership and abolishing the Special Education and Related Services Funding Task Force (HB 2594, as amended by House Committee);
- Requiring school districts to establish at-risk student accountability plans to assist in demonstration of student academic achievement and require reporting of such plans to the State Board (HB 2650, as amended by House Committee);
- Establishing requirements for the determination of Virtual School State Aid for adult students (HB 2717, as amended by House Committee);
- Modifying the excess costs calculation methodology for special education (HB 2738, as amended by House Committee); and

- Pertaining to the public school financing system, updating a reference applicable to certain appropriations to programs that provide individualized support to students enrolled in USDs and assist in achievement to replace Communities in Schools with SparkWheel (similar reference updates are made in appropriations sections of this bill).

[*Note:* The third Conference Committee retained the above-described amendments. Further modifications to provisions pertaining to at-risk accountability plans and school district at-risk fund expenditures; school building disposal; and Special Education State Aid are detailed in the Conference Committee Action portion of this report brief.]

The referenced bills' provisions were incorporated into House Sub. for SB 387. Background information for each bill follows.

### ***House Committee of the Whole***

The House Committee of the Whole amended the bill to modify at-risk accountability plan and related quantitative academic improvement goals to allow school districts to conduct either a four-year or five-year longitudinal academic evaluation of student cohort groups identified on the district's accountability plan. [*Note:* The third Conference Committee retained this amendment and made further amendments pertaining to a pilot program and reporting of cohort group improvements.]

### ***HB 2489 (School District Building Closure and Land Acquisition Process)***

HB 2489 was introduced by Representatives K. Williams and Fairchild.

[*Note:* Conferees to the bill referenced a recent Attorney General (AG) Opinion (2023-12). The AG Opinion addresses six questions regarding the interpretation of sections 4 (codified at KSA 2023 Supp. 72-1439) and 11 (codified at KSA 2023 Supp. 72-3216(d)) of 2023 House Sub. for SB 113 (SB 113) as it might impact the sale or lease of a school building. "Dispose of" and similar phrases would generally mean "to deal with conclusively, give away or sell, or to get rid of a school district building. It does not include leasing or renting a building."]

### ***House Committee on K-12 Education Budget***

In the House Committee hearing on January 24, 2024, Representative Fairchild provided **proponent** testimony, outlining issues an area school district superintendent reported regarding the inability to sell a shed owned by that district due to a right of first refusal provision for purchase in 2023 law (SB 113) that appears to apply to not only attendance buildings but other school district buildings. The bill would address the matter by more narrowly defining "building" to clarify a building used in any prior school year as an attendance center.

Neutral testimony provided by a representative of the Kansas Association of School Boards (KASB) cited support for the narrowing of the property subject to the disposition of district property law but also cited several concerns with the provisions of current law on the time frame for the disposition process and the impediments affecting school districts' ability to make responsible, efficient decisions to dispose of district property. Citing the AG Opinion, the

conferee noted the ambiguity regarding the “acquisition” of the property—whether it must be at fair market value or if the state agency would be allowed to buy the property for a reduced price or demand the acquisition of the property at no cost.

**Opponent** testimony was provided by the Superintendent of USD 232 (DeSoto), stating the bill does not address the broader issues associated with the 2023 law, which has left school districts uncertain on how to navigate the process of disposing of school buildings. The conferee requested consideration for repeal of the property disposal provisions in the law, citing a currently vacant attendance center and property that could be ideal for an area business for the staging and construction process for its plant. The timeline to work through the new legal process for disposal of property will not allow the district to work through the timeline suggested by developers. Written-only opponent testimony was submitted by the Superintendent of USD 308 (Hutchinson Public Schools).

The House Committee amended the bill to:

- Permit the Legislative Coordinating Council, within 45 days after notice of intent to dispose of a school district building (existing law), to deny the authorized legislative option for the State to acquire the building;
- Create an exception from the disposal process provided in KSA 2023 Supp. 72-1439 for any school district building for which the school district did not receive any payment of Capital Improvement State Aid for the purchase, construction, repair, remodel, equipping, furnishing, or improving of or making additions to such school district building;
- Provide that if the Legislature does not adopt a concurrent resolution within the prescribed 45-day period or if the state agency does not take title within the 180-day period, the school district board of education may dispose of the property as the board deems to be in the best interest of the district; and
- Insert and amend provisions pertaining to disposition of school district property to prohibit a school district board, when disposing of any school district property, from refusal to sell, lease, or convey any interest in a building or property to a prospective owner or lessee solely because the prospective owner or lessee may use or intends to use the building or property as a nonpublic school building.

### ***HB 2506 (Virtual School Participation in KSHSAA Activities, Virtual School State Aid Determination)***

HB 2506 was introduced by the House Committee on K-12 Education Budget at the request of Representative Thomas.

#### *House Committee on K-12 Education Budget*

In the House Committee hearing on January 24, 2024, a virtual school administrator provided **proponent** testimony, sharing that in current law, virtual schools cannot allow dual enrollment because if a student is enrolled at a virtual school and enrolls at a brick-and-mortar public school, even for one credit hour, then funding for the virtual school is cut in half.

According to the conferee, this bill would allow virtual students more freedom to participate in public school KSHSAA activities, as the virtual schools would not lose funding.

Written-only proponent testimony was submitted by a representative of Americans for Prosperity, six representatives from virtual schools, and ten private citizens.

Neutral testimony was submitted by a representative from KSHSAA. The conferee indicated this bill would help eliminate some double standards between nonpublic students and virtual students which were unintended consequences of the current law. The conferee requested the continued ability for school districts to consider classroom time for music, debate, speech, and other classes that require classes during the school day to also be required classroom time for virtual students. The conferee also indicated the organization would be moving forward with this issue on its own, so legislation is not needed.

**Opponent** testimony was provided by a KASB representative. The conferee indicated that the bill is unfair to public school students and prioritizes extracurricular activities over academics. The conferee noted that local brick-and-mortar students could be excluded from extracurricular activities in favor of virtual students and that private virtual school students may not have to comply with the same academic standards as the public school students.

The House Committee amended the bill to:

- Require the following to be included in the definition of FTE virtual students:
  - The student would be in attendance at the virtual school for a single school day on or before September 19 of the school year; and
  - The student would be in attendance at the virtual school for a single school day or after September 20 but before October 4 of the school year.
- Require virtual schools to determine FTE enrollment of each student enrolled on September 20 of the school year pursuant to a prescribed calculation methodology;
- Insert provisions from KSA 72-3715 (Virtual Student State Aid, FTE enrollment) and amend those provisions to modify the formula for determining Virtual Student State Aid and remove definitions for “full-time” and “part-time”; and
- Add language that, for the purposes of funding, a virtual student who is a non-resident of Kansas would not be counted in the FTE enrollment of the virtual school, and the virtual school would record the permanent address of all students enrolled in the virtual school.

### ***HB 2514 (School District Open Enrollment, Priorities)***

HB 2514 was introduced by Representative K. Williams and 26 other representatives.

#### *House Committee on K-12 Education Budget*

In the House Committee hearing on January 25, 2024, **proponent** testimony was provided by the Superintendent of USD 115 (Nemaha Central Schools). The conferee indicated support



of the bill because it would ensure currently enrolled non-resident students can continue their attendance rather than be a part of the lottery system.

Written-only proponent testimony was provided by the Superintendent of North Jackson Heights (USD 335) and a representative of the Reason Foundation.

Neutral testimony was provided by representatives of the Americans for Prosperity–Kansas, KASB, and United School Administrators of Kansas (USA Kansas). The conferees requested consideration for amendments to address allowing school districts to place students who have been suspended or expelled for 186 days in a virtual program, the responsible party for transportation costs for students with special needs, the ability of a school district to reject students due to not being in good standing, and changing the date for when the open enrollment lottery occurs.

No other testimony was provided.

The House Committee amended the bill to:

- Change the dates for non-resident students to apply to a school district for the next school year to between January 1 of the preceding school year and June 15 of such school year;
- Add July 30 of such school year as the last day for school districts to notify parents of the reason for non-acceptance or denial of a non-resident student;
- Include language to specify that resident school districts are not required to provide transportation for non-resident students unless otherwise required by applicable law;
- Exclude virtual schools from the open enrollment statutes; and
- Authorize any non-resident student who attended a school district in school year 2023-2024 to continue such enrollment.

### ***HB 2594 (Education Funding Task Force)***

HB 2594 was introduced by the House Committee on K-12 Education Budget at the request of Representative K. Williams.

#### *House Committee on K-12 Education Budget*

In the House Committee hearing on January 29, 2024, no in-person **proponent** or **opponent** testimony was provided.

Written-only proponent testimony was submitted by a representative of the Kansas Policy Institute (KPI). The proponent testimony addressed the structure and implementation of school funding and the need to meet the goal to appropriate and provide effective allocation of resources toward improvement of student performance. The testimony supported the repeal of authorization of the existing Special Education and Related Services Funding Task Force to

study special education funding and inclusion of special education delivery in the Education Funding Task Force.

Written-only opponent testimony was submitted by the Superintendent of Olathe Public Schools (USD 233), a representative of the Kansas National Education Association (KNEA), a special education director for a regional educational service center, and three private citizens. The opponents generally stated concerns with the proposed expiration of the existing task force, the need for additional meeting time and further consideration and implementation of its recommendations, and the complexity of and discussions needed to evaluate special education funding. The special education director requested consideration for inclusion of both infant-toddler special education and preschool special education representation on the proposed task force. The superintendent requested consideration for school business officers, curriculum leaders, and special education administrators.

In the hearing, neutral testimony was provided by representatives of the State Board of Education, Game On for Kansas Schools, KASB, Kansas PTA, and USA Kansas. The neutral conferees generally opposed the sunset of the Special Education and Related Services Funding Task Force and requested consideration for the addition of experts in the field of school finance and special education.

The House Committee amended the bill to:

- Revise an appointment assigned to the Senate President from the member requirement of a parent of a student to a current or retired public school teacher;
- Permit any superintendent appointed to the task force to designate another individual to attend task force meetings as that person's designee;
- Revise one of the ex officio member appointees from the Commissioner of Education or the Commissioner's designee to instead specify the KSDE Deputy Commissioner of Fiscal and Administrative Services or the Deputy Commissioner's designee;
- Add an ex officio member, increasing this membership type from three to four appointees, to include the KSDE Director of Special Education and Title Services; and
- Change the deadline for new task force member appointment from September 1, 2024, to November 30, 2024.

### ***HB 2650 (At-Risk Accountability Plan and Improvement Goals, Reporting)***

HB 2650 was introduced by the House Committee on K-12 Education Budget at the request of Representative Goetz.

#### *House Committee on K-12 Education Budget*

In the House Committee hearing on February 7, 2024, a representative of KPI provided **proponent** testimony, stating that Kansas needs to have a sense of urgency on this matter and that the State needs to make sure that at-risk dollars are spent in an appropriate way. The

conferee also noted that at-risk students are those that the Kansas Supreme Court decision in *Gannon* identified as a concern.

Written-only proponent testimony was provided by a private citizen.

**Opponent** testimony was provided by representatives of USD 439 (Sedgwick Public Schools), the State Board, Game On for Kansas Schools, KASB, and USA Kansas. The opponents generally noted a concern about language in the bill that focuses on the 75 percent of all students scoring in levels 3 and 4 on the ELA and mathematics assessments. The KASB conferee requested clarification regarding the student cohort groups, as students could move in and out of at-risk status within a school year or between school years. The State Board conferee addressed the State Board's constitutional authority as it relates to the bill. Several conferees also emphasized that level 2 on the state assessments means "on track" and not failing the state assessments.

Written-only opponent testimony was provided by representatives of USD 229 (Blue Valley Schools), USD 259 (Wichita Public Schools), USD 507 (Satanta), Chamber Academy, Complete High School Maize, Independence High School, KNEA, the Kansas Association of Special Education Administrators (KASEA), and a private citizen.

Written-only neutral testimony was provided by a representative of USD 500 (Kansas City Kansas Public Schools).

The House Committee amended the bill to:

- Change references from "subgroup" to "cohort group" and modify provisions pertaining to cohort groups to:
  - Establish that individual school districts create improvement goals for their school district's cohort groups that are separate from the State Board's specified goal;
  - Continue the practice of identifying cohort groups and providing evidence-based instruction to those cohort groups until the school district achieves the State Board's goal;
  - Require a 3rd grade cohort group and an additional cohort group from any other grade K-8 rather than a 3rd grade and 4th grade cohort group;
  - Require that the individual school district choose two, three, or four targeted supports or interventions for the cohort groups;
  - Evaluate the 3rd grade cohort group on two quantitative measures, one of which would be the ELA and mathematics state assessments and the other from the list of approved quantitative measures;
  - Evaluate the other cohort group on two quantitative measures; and
  - Require the quantitative measures approved by the State Board to only include the following:
    - ELA and mathematics state assessments;
    - Formative assessment approved by the State Board;
    - A summative assessment approved by the Board; or
    - The ACT or ACT WorkKeys assessments;

- Include high-density at-risk student weighting as well as the at-risk student weighting when considering failure to meet or exceed the improvement goals for the school districts;
- Include in the school district's report to the State Board what targeted support and interventions from the at-risk list of approved programs the school district is using to provide evidence-based services above and beyond regular education services;
- Change the requirement for a school district to report longitudinal performance of students who are continuously receiving at-risk programs and services and any other information required by the State Board;
- Restore language regarding provisional at-risk educational programs and authorization for expenditures for provisional at-risk educational programs and remove language regarding the online at-risk best practices list and add back the language that the State Board shall identify, approve, and provide a list of at-risk educational programs that provide the best practices and evidence-based instruction;
- Add language requiring provisional at-risk programs to be subject to a peer review while the program is implemented to evaluate whether the program is producing or is likely to produce measurable success and, if the program satisfies the State Board's requirements, it shall be added to the list of approved at-risk educational programs;
- Create or modify definitions for terms, including "above and beyond," "at-risk educational program," "evidence-based instruction," and "provisional at-risk educational program";
- Remove language requiring school districts to be in compliance with, or working with the State Board to achieve compliance with, all federal and state statutes and rules and regulations in order to remain accredited; and
- Modify the requirement that the State Board not revise or update the ELA or mathematics standards to "substantially revise or update" the standards in a manner that would require development of new statewide assessments for ELA or mathematics.

***HB 2717 (Virtual School State Aid Determination for Adult Learners)***

HB 2717 was introduced by the House Committee on K-12 Education Budget at the request of Representative Schmoe.

*House Committee on K-12 Education Budget*

In the House Committee hearing on February 19, 2024, two representatives of the Graduation Alliance provided **proponent** testimony, stating the bill would clarify reporting of adult virtual students to ensure consistent application of future auditing procedures. The representatives spoke to their organization's experience with assisting adult learners to achieve an accredited high school diploma and challenges encountered with the school year 2021-2022 program audit that was financially harmful to a school district and their program.

**Opponent** testimony provided by representatives of the State Board indicated the bill is not needed as there have been few issues with the reporting and auditing process. The conferee indicated the KSDE currently works with 60 districts that provide virtual school services to students over 20 years of age. The representatives indicated an amendment is needed to permit funding only for credits earned in the previous school year. Written-only opponent testimony was submitted by a representative of USA Kansas and the Kansas School Superintendents' Association.

The House Committee amended the bill to clarify the reimbursement from Virtual State School Aid for credits earned in the preceding school year.

### ***HB 2738 (Special Education Excess Costs)***

HB 2738 was introduced by the House Committee on K-12 Education Budget at the request of Representative Goetz.

#### *House Committee on K-12 Education Budget*

In the House Committee hearing on February 13, 2024, a representative of KPI provided **proponent** testimony, stating this bill would adjust the excess costs formula to include areas that should be counted, including LOB funding. The conferee detailed the proposed formula using KSDE data and suggested some adjustments to the proposed formula to include calculating how much of the excess costs should be Special Education State Aid and how much should come from the LOB.

**Opponent** testimony was provided by representatives of USD 337 (Royal Valley), USD 383 (Manhattan-Ogden), Butler County Interlocal 638, USA Kansas, KASB, Game On for Kansas Schools, and the Kansas PTA. The opponents generally outlined concerns including that portions of the formula would not equalize Special Education State Aid funding but rather would create inequity across school districts, that using LOB money for Special Education would be taking away from funding which should be used for all students, and that the entire 92 percent of excess costs should cover Special Education State Aid. The conferee from USD 337 also expressed a concern about how this new formula would affect funding with cooperatives and interlocals and a concern that looking at excess costs on a district level would also be inequitable because the costs would fall more on poorer districts. The conferee from USA Kansas stated that this bill will take money away from school districts.

Written-only opponent testimony was provided by representatives of USDs 108 (Washington County Schools), 233 (Olathe), 259 (Wichita), 267 (Renwick), 306 (Southeast of Saline), 495 (Fort Larned), 497 (Lawrence), 501 (Topeka Public Schools), and 507 (Satanta); Cowley County Special Services; KASEA; KNEA; Leawood Parents for Education; Mainstream; Merriam City Council; SEK Interlocal; the State Board; and 72 private citizens.

The House Committee amended the bill to:

- Exclude the following weightings from the excess cost formula in step 1's weighted FTE enrollment count: special education, bilingual, transportation, career and technical education, and at-risk;

- Modify the steps in the school district excess cost formula to add together general education aid for special education students and the school district's LOB derived from special education;
- Specifically ensure that both Special Education State Aid and LOB funds derived from special education are determined by the excess costs formula;
- Modify the statewide excess costs formula to follow the same steps as the school district excess costs formula;
- Add steps to the statewide excess costs formula to specify how much of the 92 percent of excess costs aid would come from State Aid and how much would be transferred from the LOB; and
- Clarify that the statewide Special Education State Aid calculation is the combined amount of State Aid and LOB money that is received, raised, and used for special education and related services.

### **Fiscal Information**

The following fiscal information includes information prepared by the Division of the Budget fiscal notes for the bills whose content is included in House Sub. for SB 387. [Note: Updated fiscal information for changes made by the second and subsequent Conference Committee was not immediately available.]

Any fiscal effect associated with enactment of those bills' provisions is not reflected in *The FY 2025 Governor's Budget Report*.

#### ***HB 2489 (School District Building Closure and Land Acquisition Process)***

According to KSDE, the enactment of HB 2489, as introduced, would have no fiscal effect on state aid to school districts. Legislative Administrative Services (LAS) indicates that enactment of the bill would have no fiscal effect. The KASB indicates the definition of "building" in HB 2489 would likely allow for quicker disposal of buildings that have not been used as an attendance center; however, the organization does not have data that could estimate a fiscal effect.

#### ***HB 2506 (Virtual School Participation in KSHSAA Activities, Virtual School State Aid Determination)***

The enactment of HB 2506, as introduced, would have no fiscal effect on state aid to school districts and would have no fiscal effect on state expenditures. The KASB indicates enactment of the bill could increase the marginal costs of school district activity programs by allowing virtual students to participate in school activities. These marginal cost increases could require school districts to increase fees to other students to cover the additional virtual student costs, as the bill would not allow a district to charge a virtual student more than a traditional student; however, any fiscal effect would depend on the number of virtual students who would choose to participate in school district activities.

### ***HB 2514 (School District Open Enrollment, Priorities)***

KSDE indicates the enactment of HB 2514, as introduced, would have no fiscal effect on the agency's operations. The KASB indicates the bill could affect school finance calculations in state border districts when Kansas students would get preferential enrollment over out-of-state students. In the case where a Kansas student would get preferential treatment over an out-of-state student, the school district would get to count the Kansas resident student as 1.0 FTE student in the school finance formula, where the out-of-state student would be counted as 0.50 FTE student. Although the fiscal effect of HB 2514 cannot be estimated, the Division of the Budget notes that any changes to the statewide student FTE count resulting from the open enrollment policy changes contained in the bill would likely be negligible in the overall school finance formula calculations.

### ***HB 2594 (Education Funding Task Force)***

According to LAS, the enactment of the HB 2594, as introduced, would depend on the number of meetings of the Task Force. If the Task Force would meet four times per year, LAS estimates additional FY 2025 expenditures totaling \$23,623, all from the SGF. Of this amount, \$15,480 would be for expenditures for the six legislators, including salary (\$88.66/day X 4 days X 6 legislators = \$2,128), subsistence expenditures (\$166 X 4 days X 6 legislators = \$3,984), mileage (\$0.655/mile X 250 average mileage X 4 days X 6 legislators = \$3,930), tolls (\$6 tolls X 4 days X 6 legislators = \$144), enroute day (\$166 X 4 days X 6 legislators = \$3,984), and fringe benefits (\$1,310). For the four non-legislators, expenditures are estimated at \$5,315, including subsistence expenditures (\$96 X 4 days X 5 members = \$1,920), mileage (\$0.655/mile X 250 average miles X 4 days X 5 members = \$3,275), and tolls (\$6 X 4 days X 5 members = \$120). Expenditures for the committee assistant would total \$2,648, including fringe benefits. Finally, LAS estimates costs to publish the bill in the *Kansas Register* at \$180.

LAS notes that Task Force meeting expenditures likely would be required in FY 2026 and FY 2027. Although inflation would likely increase expenditures for salaries, mileage, tolls, and other expenditures over time, similar expenditures, except for the publication in the *Kansas Register*, would be expected in these fiscal years.

Addressing provisions that would repeal authorization for the Special Education and Related Services Task Force, LAS notes the LCC has not authorized any meetings beyond FY 2024; as a result, no additional expenditures have been budgeted in FY 2025.

### ***HB 2650 (At-Risk Accountability Plan and Improvement Goals, Reporting)***

According to KSDE, the fiscal effect for enactment of HB 2650, as introduced, would be associated with potential State Foundation Aid reductions associated with the at-risk weighting, as well as the administrative costs to the Department.

The bill would include a mechanism for a school district to have its State Foundation Aid entitlement reduced if it fails to meet or exceed the quantitative academic improvement goals set by the district. With this provision, state expenditures for State Foundation Aid associated with the at-risk weighting has the potential to be reduced. However, any reduction would depend on the number of districts that would fail to meet or exceed the goals set by the district. The Department indicates the reduction in state aid expenditures cannot be estimated. The Division

of the Budget notes that any reduction of expenditures would be from the State General Fund appropriation for State Foundation Aid.

For administrative costs, the Department estimates that it would require an additional appropriation from the SGF totaling \$252,314, including 3.0 FTE positions in FY 2025. This estimate includes a 1.0 FTE position in the agency's Administration Program (School Finance) at a cost of \$72,216 for salaries and wages (including fringe benefits) and \$3,500 for other operating expenditures, including computers, rent, office equipment, and supplies. Also included in the estimate are 2.0 FTE positions in the Standards and Assessments Services Program to oversee school district plans, compliance, and the maintenance and updating of the approved at-risk program list. This estimate includes salaries and wages of \$82,958 for 1.0 FTE Coordinator position and \$84,140 for 1.0 FTE Education Program Consultant position. Both estimates include fringe benefits for the positions. For both of these positions, the Department estimates other operating expenditures totaling \$9,500, including rent, office equipment, and supplies. The Department notes that these administrative expenses would be ongoing after FY 2025 and would be similar in cost in future years.

### ***HB 2717 (Virtual School State Aid Determination for Adult Learners)***

According to KSDE, the provisions in HB 2717, as introduced, regarding auditing, reporting, and verification would not have a fiscal effect on its operations. However, the agency indicates the provisions related to reimbursements requiring the funding credits earned in any preceding school year could increase school district Virtual State Aid entitlements.

Currently, districts are reimbursed for credits earned only in the prior year and are subject to a six-credit maximum reimbursement. The bill would allow districts to request reimbursement for credits earned in any prior year. For example, if a district required 21 credits, a student could earn all 21 credits in one year and the district could submit those 21 credits in increments of 6 credits over 4 years. This scenario would allow districts to claim a full-time student each year, rather than receiving the maximum of six credits in one year. The Department is unable to estimate the fiscal effect of this provision; however, it may result in an increase in state aid entitlements by districts.

### ***HB 2738 (Special Education Excess Costs)***

KSDE utilized data from the 2023-2024 school year to illustrate the changes that HB 2738, as introduced, would have related to special education calculations contained in current law. Under current law, the Department estimates the excess costs of providing special education services to eligible students over the regular cost of education totals \$762.2 million for FY 2024. With the current approved FY 2024 SGF appropriation for special education services of \$528.2 million, KSDE estimates approximately 69.3 percent of excess costs are anticipated to be covered by state aid to school districts. To fund the current statutory rate of 92.0 percent of excess costs in FY 2024, a total FY 2024 SGF appropriation of \$701.2 million would be required, or an additional \$173.0 million from the current approved SGF appropriation for Special Education State Aid.

With the revised special education formulas contained in the bill, the same data would calculate excess costs of providing special education services in FY 2024 totaling \$482.0 million. With the current approved FY 2024 SGF appropriation for special education services of



\$528.2 million, approximately 109.6 percent of excess costs would be covered by state aid to school districts.

In addition, the Department would require additional FY 2025 expenses totaling \$149,432 from the SGF, including 2.0 FTE Public Service Administrator positions in the agency's Administration Program (School Finance). Salaries and wages for these 2.0 FTE positions would total \$144,432 (including fringe benefits). Also included in the estimates is \$5,000 for other operating expenditures for the positions, including computers, phone, internet, copier usage, and office rent. Similar administrative expenditures would be required in FY 2026.

From the Governor's FY 2025 recommendations for Special Education State Aid, the enactment of HB 2738 would result in a reduction of approximately \$82.4 million in state aid to school districts. The Division of the Budget also notes that the 2023 Legislature appropriated \$535,518,818 from the SGF in FY 2025 for Special Education State Aid. Absent any future appropriation changes for FY 2025 and according to HB 2738, the Department would distribute \$528,018,516 to school districts as Special Education State Aid. The remaining \$7,500,302 would be distributed as Special Education Equalization State Aid, in which the State Board would give consideration to the discrepancies between each school district's excess cost, as outlined in the bill.

Education; appropriations; at-risk accountability plans and reporting; pilot and statewide programs for cohort groups and for at-risk expenditure reporting; Education Funding Task Force; open enrollment and resident students; school building closure and land acquisition; school finance; Special Education State Aid and excess costs calculation; Virtual School State Aid; virtual students and KSHSAA activities

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