

# EDUCATIONAL LEGISLATION 2004



Compliments of

*Kansas State Department of Education*



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Kansas State Education Building  
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# **SUMMARY OF SELECTED**

## ***EDUCATION LEGISLATION – 2004***

### **INTRODUCTION**

This booklet, Educational Legislation – 2004 Session, is published annually to provide enrolled copies and summaries of selected education bills passed by the Kansas Legislature relating generally to Unified School Districts, Interlocal operatives, and private schools.

The summaries of the bills were prepared by the Kansas Legislative Research Department in cooperation with the Kansas State Department of Education.

The bills chosen include important legislative information related to education. There is a summary of each bill followed by the link to the full text of the bill on the internet (except where otherwise noted.) To follow the link, highlight the link, control + click then choose the bill from either the House or Senate List. If you have trouble accessing or printing a bill, please contact Dale Anne Reser at (785) 296-4971.

Dale M. Dennis, Deputy Commissioner  
Division of Fiscal & Administrative Services  
July, 2004

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Kansas State Department of Education's Approved Budget  
For Fiscal Years 2004 and 2005  
House Bill No. 2675 and Senate Substitute for House Bill No. 2471

<u>Program</u>	(1) <u>FY 2004 Approved</u>	(2) <u>FY 2005 Approved</u>	(3) <u>(Col. 2 - 1) Difference</u>
General State Aid	1,626,426,000	1,766,692,000	140,266,000 *
Suppl. General State Aid	160,598,000	171,415,000	10,817,000
School District Finance Fund	32,000,000	14,900,000	(17,100,000)
Capital Improvement Fund	52,000,000	57,000,000	5,000,000
Juvenile Detention Facilities	6,268,915	5,599,393	(669,522)
School Food Service Match	2,510,486	2,510,486	0
Special Education Services	251,016,845	251,016,845	0
Educable Deaf/Blind Program	110,000	110,000	0
Ag in the Classroom	35,000	35,000	0
Discretionary Grants	130,000	130,000	0
Parent Education Program	7,167,000	7,167,000	0
KPERS – Schools	119,890,912	139,232,391	19,341,479
Gov's NBC Scholarships/Awards	176,000	222,000	46,000
Vision Study Grant	300,000	300,000	0
School Safety Hotline	10,000	10,000	0
Operating Expenditures	<u>8,967,969</u>	<u>9,170,277</u>	<u>202,308</u>
<b>Total</b>	<b>2,267,607,127</b>	<b>2,425,510,392</b>	<b>157,903,265</b>

\* Includes replacement of \$156 million in one-time savings in FY 2004 due to the acceleration of the June 2004 property tax payment to May 2004. (no link – bill includes all agencies)

## University Police and Campus Police

**House Sub. for SB 136** amends the law concerning “university police” and creates a new category for “campus police.” “University police” will continue to be employed by the chief executive officer of any state educational institution or municipal university. “Campus police” will be employed by a community college or school district.

University police and campus police will have jurisdiction:

On property owned, occupied, or operated by the educational institution of a school district and on property associated with student activities or student functions;

On the streets, property, and highways immediately adjacent and coterminous with the educational institution’s property;

Within the city or county where the property is located, with appropriate agreement by the local law enforcement agencies;

When in fresh pursuit of a person;

When transporting persons in custody; and

When providing emergency transportation of medical supplies and transplant organs.

Both university police and campus police will be required to meet the training requirements of the Kansas Law Enforcement Training Act.

The bill adds the university police and campus police to several statutes which define crimes against a law enforcement officer.

Another provision of the bill requires the board of education of each school district to adopt a policy providing for notification of a student’s parents or guardian whenever the student is taken into custody by a campus police officer.

<http://www.kslegislature.org/cgi-bin/signed-enrolledbills/index.cgi>

## **Elementary and Secondary Education Issues**

**SB 304** concerns the computation of the amount of state financial aid received by school districts that consolidate; establishment of the Center for Innovative School Leadership; duties of school site councils; school district policies concerning the self-administration of medication by students; and counting of virtual school pupil enrollment. The bill also deletes obsolete language.

Major components of the bill are discussed below.

### ***Consolidation***

Prior law provided an incentive to school districts that consolidate by July 1, 2004. The bill provides an incentive to districts that begin the consolidation process but are not able to complete it by the July 1, 2004, deadline.

Under the bill, if consolidation is completed by July 1, 2005, the consolidated district will receive state financial aid equal to what the combined districts received the year prior to consolidation. For the next two school years, the consolidated district will receive the greater of the amount it received the prior year or the amount it receives under the school finance formula. (Under the prior law, school districts that consolidate prior to the July 1, 2004, deadline receive a financial incentive for three succeeding school years.)

A similar incentive is provided for school districts which are disorganized and are attached to a single school district.

### ***Center for Innovative School Leadership***

The "Center for Innovative School Leadership" is established as a cooperative endeavor of Emporia State University, Pittsburg State University and Fort Hays State University for the purpose of providing consultation services and assistance to school districts to improve administrative and academic efficiencies. The Center is authorized to form cooperative or outsourcing arrangements among school districts to improve administrative and academic efficiencies and to form teams with representatives from the fields of education, business, and industry in connection with its activities. School districts using the Center's services will pay a fee based on a set flat fee, a percentage of dollars saved, or a combination of the two.

### ***School Site Councils***

The bill adds responsibilities that school site councils may undertake to include making recommendations and proposals to the school board regarding budgetary items and school district matters, including identifying and implementing the best practices for developing efficient and effective administrative and management functions; assisting

school boards in analyzing the unique environment of schools and enhancing efficiency and maximizing limited resources, including outsourcing arrangements and cooperative opportunities as a means to address limited budgets. Under prior law, school site councils were required to provide advice and counsel in evaluating state, school district, and school site performance goals and objectives and in determining the methods that should be employed at the school site to meet these goals and objectives.

### ***Virtual School Students***

The bill provides that a pupil enrolled in a virtual school in a school district who is not a resident of the state will not be counted in the school district's enrollment.

### ***School Board Policies Regarding Self-Medication by Students***

The bill requires a school district to adopt a policy authorizing the self-administration of medication for the treatment of asthma or anaphylactic reactions by students in grades 6 through 12. A school district also is authorized, at its discretion, to adopt such a policy for children in kindergarten and grades 1 through 5. Students will be required to meet all requirements of school district policies, which may include, but would not be limited to, the following:

A requirement of a written statement from the student's health care provider stating the name and purpose of the medication, the prescribed dosage, the time the medication is to be administered, the length of time for which the medication is prescribed, and any additional special circumstances.

A requirement of written authorization from the student's health care provider and parent or guardian stating that the student has been instructed on self-administration of the medication.

A requirement that the student's parent or guardian provide written authorization for the self-administration of medication.

The requirement that parental or guardian authorization for the self-administration of medication be renewed annually.

A school district, and its employees, which authorizes the self-administration of medication in compliance with the provisions of the bill will not be liable in any action for any injury resulting from the self-administration of medication. The district will be required to provide written notification to the student's parent or guardian to that effect and the parent or guardian will be required to sign a statement of acknowledgment.

The provisions of the bill relating to the self-administration of medication by students terminates June 30, 2005.

<http://www.kslegislature.org/cgi-bin/signed-enrolledbills/index.cgi>

## Education Article Appeals to Supreme Court

**SB 324** amends an appellate jurisdiction statute regarding appeals to the Kansas Supreme Court. The bill provides that the appellate jurisdiction of the Kansas Supreme Court may be invoked by appeal as a matter of right from a preliminary or final decision in which a Kansas statute has been held unconstitutional as a violation of Article 6, the Education Article, of the Kansas Constitution. Any appeal filed shall be filed within 30 days of the date the preliminary or final decision is filed or within 30 days of the effective date of this act, whichever is later. The provisions of this subsection shall expire on July 1, 2006.

<http://www.kslegislature.org/cgi-bin/signed-enrolledbills/index.cgi>

## Meetings to Discuss Consolidation

**SB 373** provides that boards of education of two or more school districts that are considering consolidation may meet to discuss issues relating to consolidation within the boundaries of any of the districts proposing to form the consolidated district. The bill makes it clear that it is legal for districts considering consolidation to hold a meeting to discuss related issues within the boundaries of one of the districts involved.

<http://www.kslegislature.org/cgi-bin/signed-enrolledbills/index.cgi>

## **Comprehensive Transportation Program Financing**

**SB 384** creates a funding mechanism for the Comprehensive Transportation Program (CTP). The bill provides for issuance of revenue bonds, changes in the sales tax rate, and disposition of resulting revenue.

### **Bonding.** The bill:

authorizes the Kansas Development Finance Authority (KDFA), subject to approval of the Secretary of Transportation and the State Finance Council, to issue revenue bonds in an amount not to exceed \$150,000,000, plus amounts to pay the costs of the bonds, including credit enhancements, and provide reserves required for the bonds, to finance the CTP. Revenue from those bonds will be credited to the State Highway Fund (SHF);

authorizes issuance of additional bonds, subject to approval of the State Finance Council, to offset any shortfall in anticipated federal receipts for state fiscal years 2005 - 2009 in an amount that is the lesser of the federal shortfall or \$60,000,000. Any such issuance will be subject to review and recommendation to the Finance Council by the Legislative Budget Committee; and

requires the revenue bonds and interest to be payable from money appropriated for that purpose.

### **Sale Tax Rate and Disposition of Revenue Provisions**

The bill also extends indefinitely the 5.3 percent state sales and compensating use tax rate which is scheduled by law to be reduced to 5.0 percent on July 1, 2006. An increased portion of the sales and use tax rate also will be earmarked for deposit in the SHF. Under prior law, 5/106 (one quarter cent) was deposited in the SHF. The bill expands the earmarking to 19/265 (0.38 cents) in FY 2007; and 13/106 (0.65 cents) in FY 2008 and thereafter. Finally, the bill repeals a statute that provides for a transfer to the SHF of 12 percent of sales and use taxes which are deposited initially in the SGF.

### **Fiscal Implications**

The total change in revenues relative to prior law based on the tax rate extension and the additional diversion of receipts to the State Highway Fund will be as follows, based on the November, 2003 consensus estimate:

(\$ in millions)

	Total New Revenue	SGF	SHF
FY 2007	\$111.419	\$58.748	\$52.671
FY 2008	\$125.802	(\$41.934)	\$167.735
FY 2009	\$130.204	(\$43.401)	\$173.605
FY 2010	\$134.762	(\$44.920)	\$179.682

Based on the November, 2003 consensus estimate, the repeal of the transfer is expected to have the following impact:

(\$ in millions)

	SGF	SHF
FY 2005	\$200.179	(\$200.179)
FY 2006	\$207.508	(\$207.508)
FY 2007	\$206.192	(\$206.192)
FY 2008	\$209.082	(\$209.082)
FY 2009	\$216.400	(\$216.400)
FY 2010	\$223.974	(\$223.974)

## **Adjustments in Public Employee Benefits, Employer Contributions and Actuarial Calculations**

**SB 520** is the 2004 KPERS Omnibus Bill with the following provisions:

Raise the Kansas Public Employees Retirement System (KPERS) local group's employer contribution rate caps to the same levels as the state and school group rate caps. The local group employer rate caps will increase from the prior level of 0.15 percent annually to 0.4 percent for CY 2006, 0.5 percent for CY 2007, and 0.6 percent for CY 2008 and subsequent years to insure adequate contributions are remitted.

Allow Tier I KP&F members to retire with unreduced benefits after 32 years of service regardless of age. Under prior law, such individuals who were members of Tier I would have to wait until age 55 for unreduced benefits.

Shift sworn officers in the Capitol Police from KPERS benefits to Kansas Police and Fireman's (KP&F) Retirement System benefits. All future sworn officers will become KP&F members, and existing officers could individually elect to join KP&F or remain KPERS members.

Shift sworn officers in the Motor Carrier Inspection Troop of the Highway Patrol from KPERS benefits to KP&F benefits. All future sworn officers will become KP&F members, and existing officers could individually elect to join KP&F or remain KPERS members.

Divide the KPERS state and school group into two separate groups for actuarial calculations and determination of employer contribution rates. The State of Kansas will continue to be responsible for making employer contributions for both the state group and the school group. The fiscal note is based on an estimated unfunded actuarial liability (UAL) as of the December 31, 2002, valuation performed by the KPERS actuary, and includes the impact of the \$440 million in pension obligation bonds. Equilibrium for increasing employer contribution rates is projected in FY 2018 at 12.3 percent for a combined state and school group, for the separate state group in FY 2009 at 6.84 percent, and for the school group in FY 2023 at 15.96 percent.

Direct KPERS school employer contributions paid by the state to be distributed by the Department of Education to 302 school districts, deposited into special school district fund, and then paid to KPERS as an expenditure of the school district.

Establish a new fund into which KPERS will deposit employer contributions authorized for the repayment of 2003 bonds and authorize an annual transfer to the State General Fund for a 10-year period to reimburse bond principal and interest costs.

Allow active members of KPERS, KP&F, and the Retirement System for Judges to designate separate beneficiaries for their retirement and for their life insurance benefits, if they desire to name different beneficiaries. This allow members with

special medical or financial needs to request early approval before the January 1, 2005, implementation date for all other members. Under prior law, active KPERS, KP&F, and Judges retirement systems members could have named any natural person, trust or estate to receive retirement and life insurance benefits upon the member's death. The law further specifies that the named beneficiary or beneficiaries must receive all benefits payable including accumulated retirement contributions, retirement benefits, and all life insurance benefits.

Adjust the limit on KPERS alternative investments but continue to allow only a small percentage of the total portfolio to be invested. Under prior law, KPERS alternative investments were limited to five percent of the total portfolio. This bill removes the five percent limitation and replaces it with an annual limitation of one percent of total market value in new alternative investments.

Permit the KPERS staff rather than the Board of Trustees to receive the final due diligence findings on each real estate investment before making the investment. Under prior law, the Board of Trustees received and considered the due diligence findings on each potential investment before investing in any property. By allowing the Board to provide approval contingent upon the KPERS staff receiving the final due diligence package, KPERS believes the closing process will be expedited and the ability to effectively compete as an efficient buyer will be improved.

Allow the KPERS Board of Trustees to establish the actuarial cost method, and to determine the unfunded actuarial liability amortization method and period for all three retirement plans administered by KPERS. This change will allow the KPERS Board of Trustees to change to the entry age normal (EAN) actuarial cost method for all three systems and to potentially reamortize the unfunded actuarial liability (UAL) for the school group at some optimal point in the future.

<http://www.kslegislature.org/cgi-bin/signed-enrolledbills/index.cgi>

## Open Records Clarifications; Attorney Fees

**SB 552** makes several amendments to the list of exceptions to the Kansas Open Records Act (KORA) and extends the time frame for which attorney fees may be awarded against a party. The bill amends the following subsections in KSA 45-221:

No. 6—Letters of Reference is amended so this exception does not apply to documents relating to the appointment of persons to fill a vacancy in an elected office;

No. 8—Donor Identity is amended to provide the exception does not apply if the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public officer or employee;

No. 10—Criminal Investigation Records is amended in (10) (B) to add that disclosure would not interfere with any “criminal investigation or prosecution” and to provide that if a public record is discretionarily closed under this exception, the records custodian, upon request, shall provide a written citation to the specific provisions of (A) through (F) that necessitates closure;

No. 38—Risk Based Capital Reports is deleted from KORA since the statutes already prohibit disclosure, KSA 40-2c20 and 4-2d20;

No. 39—Annual Actuarial Opinion’s Materials is deleted from KORA since KSA 40-409 already prohibits disclosure;

No. 40—Insurance Disclosure Reports is deleted from KORA since KSA 40-2,156 already prohibits disclosure; and

No. 46—Athletic Agents Information is deleted from KORA since KSA 44-1518 and 44-1520 already prohibit disclosure.

The bill extends the ability of the court to award costs and attorneys fees for actions of a party through the appeal process. This provision awarding costs and attorney fees during an appeal shall only apply to actions based on causes of action accruing on or after July 1, 2004. The bill continues the current standard for awarding attorney fees when the denial of the records or the records request itself is deemed by a judge not to be made in good faith and was made without a reasonable basis in fact or law.

<http://www.kslegislature.org/cgi-bin/signed-enrolledbills/index.cgi>

## **License Plates**

**HB 2143** amends the law to establish new procedures and requirements for issuance of distinctive license plates. The bill also authorizes issuance of distinctive license plate decals for recipients of the Bronze Star and Silver Star and branch of military service, and issuance of firefighters', and "Helping Schools" distinctive license plates. Finally, the bill repeals authority for a distinctive license plate for public safety members.

### **Persons or Organizations Requesting Distinctive License Plates**

The bill requires any person or organization sponsoring a distinctive license plate authorized by the Legislature after June 30, 2004, to submit to the Division of Vehicles a non-refundable deposit to defray the Division's cost of developing the requested plate. The amount of the deposit will be set by the Division but could not exceed \$10,000. Except for the deposit for "Helping Schools" plates, the bill provides that deposits will be credited to the Distinctive License Plate Fund in the State Treasury. These moneys could be used by the Department of Revenue only for development of the distinctive license plates.

### **New Distinctive License Plates Authorized**

The bill authorizes issuance of two new distinctive license plates.

A "Helping Schools" license plate could be issued beginning January 1, 2005, provided sufficient plates are ordered to guarantee an initial issuance of at least 500. Persons who obtain these plates will not have to pay the personalized license plate fee that is applied to most other distinctive license plates, but will pay an annual \$40 royalty fee.

The State Board of Education, with the approval of the Division of Vehicles, will design the authorized plate. The "Helping Schools" plate could not be developed by the Division of Vehicles until the State Board of Education had collected sufficient royalty payments to cover the deposit required by the Division for development of the plate (a maximum of \$10,000).

The annual royalty payment for each license plate issued will be earmarked for a particular school district by the person to whom the license plate is issued. Royalty payments will be deposited in the Helping Schools License Plate Program Fund in the State Treasury.

Moneys credited to the Fund, except for expenses for development of the license plate and administrative costs, will be allocated and distributed annually on or after July 1, to designated school districts and used to purchase elementary and secondary classroom supplies and equipment.

Moneys distributed to school districts from the Fund will be considered donations for purposes of school district budgeting and accounting as described by existing law.

The bill authorizes, as of January 1, 2005, issuance of distinctive license plates for firefighters. Development and issuance of these plates will be subject to general requirements for the development deposit, personal license plate fee, and minimum 500 initial issuance guarantee applicable to other distinctive plates.

### **Discontinuance of Authorized Distinctive Plates**

Except for educational institution plates issued pursuant to existing law, the bill requires the Director of Vehicles to discontinue any distinctive plates authorized between July 1, 1995 and July 1, 2004, if:

Fewer than 500 plates, including annual renewals, are issued by July 1, 2006; and

Fewer than 250 plates, including annual renewals, are issued during any two-year period after July 1, 2006.

Educational institution plates (those issued for a Regents university, Washburn, a private college, community college, or Haskell University) will be discontinued by the Director of Vehicles if:

Fewer than 500 plates, including annual renewals, are issued for an educational institution by the end of the second year of sales; and

Fewer than 250 plates, including annual renewals are issued for an institution in any subsequent two-year period.

### **Discontinuance of Newly Authorized Distinctive Plates**

The bill requires the Director to discontinue issuance of distinctive plates authorized after June 30, 2004, if:

Fewer than 500 plates, including renewals, are issued by the end of the second year of sales; and

Fewer than 250 plates, including renewals, are issued during any subsequent two-year period.

### **License Plate Decals**

The bill authorizes the Director of Vehicles to provide, after December 31, 2004, a distinctive decal for any person who has been issued a military veteran plate and who has been awarded a Bronze or Silver Star. Distinctive license plate decals also will be available to indicate the branch of the service in which the veteran served. Each decal will cost \$2.

<http://www.kslegislature.org/cgi-bin/signed-enrolledbills/index.cgi>

## Undocumented Immigrant Tuition

**HB 2145** establishes criteria for determining students' eligibility for in-state tuition and fees at Kansas postsecondary educational institutions. As it relates to the bill, individuals are eligible to pay in-state tuition if he or she meets the following criteria:

Attended an accredited Kansas high school for three or more years;

Either graduated from an accredited Kansas high school or obtained a general educational development certificate (GED) in Kansas;

Been accepted for admission at a Kansas institution of postsecondary education; and

Filed an affidavit stating either that the person has filed an application to legalize his or her immigration status or to file for U.S. citizenship or that the person's parents have filed such an application.

An individual who has been deemed eligible for in-state tuition under these criteria and who has falsified the affidavit or failed to follow through on the application process will have that eligibility revoked. In addition, the individual will be required to repay the difference between resident and non-resident tuition. The provisions of the bill do not apply to an individual who has a valid student visa or who is eligible to pay in-state tuition in another state.

For purposes of the bill, "postsecondary educational institution" is defined as in the law to include any public university, municipal university, community college, technical college and vocational education school, and any combination of such postsecondary educational institutions.

<http://www.kslegislature.org/cgi-bin/signed-enrolledbills/index.cgi>

## Charter Schools Act

**HB 2558** amends several sections of the Charter Schools Act. Major provisions of the bill:

Require an estimate of the amount of federal funds to be expended and a description of how the school will operate after federal funding terminates in the application for a charter;

Require the State Board of Education to specify in writing why a petition is denied and allow that within 30 days the petitioner can make the necessary correction and the State Board will provide reconsideration within 60 days;

Require that the appropriate local board specify in writing why a petition is denied and allow that within 30 days the petitioner can make the necessary corrections and the local board will provide reconsideration;

Allow for the renewal process to be held every five years instead of every three years;

Require a local board to file a statement with the State Board of Education of the reasons why a charter school was discontinued or did not seek renewal; and

Change the date from April 1 to April 15 by when the State Board of Education is required to notify approval or disapproval of a charter school application.

<http://www.kslegislature.org/cgi-bin/signed-enrolledbills/index.cgi>

## Mediation in Land Transfers

**House Sub. for HB 2592** provides that, if a land transfer is sought between two school districts and the local boards cannot agree to the transfer, then the State Board of Education would appoint a mediator. Districts would be required to participate in at least one mediation session, with the district requesting the transfer paying the cost of the mediation. Mediators would be selected from a list maintained by the State Board. If the mediation fails to result in an agreement, a petition for transfer of territory could be submitted to the State Board for a decision.

<http://www.kslegislature.org/cgi-bin/signed-enrolledbills/index.cgi>

## Township, Fire District, and School Building Code Changes

**HB 2712** amends a statute dealing with county fire districts and the levy of taxes, amends a statute dealing with the acquisition of land by townships, establishes new procedures for the consolidation or disorganization of townships, updates the building code construction requirements for school districts and grandfathers in certain school construction projects.

The bill:

Expands the ability of county fire districts to contract for fire services with other fire districts or townships or a private entity and have the board of county commissioners levy a tax for this purpose.

Deletes a three-acre limit on the amount of land a township may acquire if voters approve and issue general obligation bonds to pay the cost and increases from two to 10 acres the amount of land a township may purchase where no election is required and the land is paid for out of the general fund or the general road fund. The limit on using the land for storage purposes also is deleted.

Updates the codes for the construction, plumbing and wiring of school buildings. School buildings must comply with the *2000 Edition of the International Building Code*, the *2000 Edition of the Life Safety Code* and the *1999 Issue of the National Electric Code of the National Fire Protection Association*. The bill grandfathers in school construction projects regarding school buildings financed with general obligation bonds authorized at an election in 2000.

The municipal university and postsecondary education institutions are added to the list of exemptions for compliance to provisions for making buildings accessible by persons with disabilities. The buildings are exempt from contracts for construction of school buildings that require the seal of an architect or a professional engineer and the requirement that the contract be submitted to the State Board of Education for approval. Exempt entities, prior to construction of buildings, must submit a code footprint for evaluation and approval of the fire/life safety features of the building to the Fire Marshal.

Amends township fire district laws to change procedures for the consolidation or addition of new townships to these fire districts and to establish a new procedure for the disorganization or consolidation of a township which has no residents.

The bill deletes the current 51 percent of the owners of the area of land requirement and substitutes a procedure whereby the various township board can place the proposition to create a new fire district before the combined township voters.

The governing body of the newly created township fire district shall consist of all members of the township boards, if there are less than four townships involved. If there are four or more townships involved the townships, governing bodies meeting together shall determine the number of the governing body for the fire district.

The bill also provides for the disorganization or consolidation of townships that have no residents or so few residents that a township officer post goes unfilled through two consecutive township elections. This bill gives the board of county commissioners authority over the township until it is disorganized or consolidated with the next geographically close township. At that time, all of the assets of the township will be transferred to the board of county commissioners for disposal. Any indebtedness of the township will be paid from the proceeds of disposal of the assets.

<http://www.kslegislature.org/cgi-bin/signed-enrolledbills/index.cgi>

## Open Records; Open Meeting Changes

**HB 2758** adds two new exceptions to the Kansas Open Records Act (KORA) from the openness requirement, expands the closure of records for security reasons under exception No. 45, amends the Kansas Open Meetings Act (KOMA) to expand the executive session exception No. 13 to expand the security related reasons for an executive session and expands the time frame where the Attorney General or county or district attorney may bring a lawsuit to void actions taken by a public body when in violation of KOMA.

Specifically, the bill does the following:

A new exception to KORA is added regarding any information or material received by the register of deeds of a county from military discharge papers (DD Form 214) except to the military dischargee, the dischargee's immediate family members and lineal descendants; the dischargee's heirs, agents or assigns; a person who is a licensed funeral director and who has custody of the body of the deceased dischargee; a department or agency of the federal government or political subdivision when required; when the form is required to perfect the claim of military service or honorable discharge or a claim of the dependent of the dischargee; and upon the written approval of the commissioner of veterans' affairs, or to a person conducting research.

A new exception to KORA is added to close information that will reveal the location of a shelter or safe-house or similar place where persons are provided protection from abuse.

KORA Security Measures exception No. 45 is expanded to allow the closure of records pertaining to security measures other than criminal investigation records that protect transportation, private property, or Kansas citizens. The security measures include, but will not be limited to, intelligence information, tactical plans, responses to actual events, resources deployment, and vulnerability assessments.

The KOMA Executive Session exception No. 13 is expanded to allow the closure of meetings pertaining to security measures that protect:

- systems, facilities, or equipment used in the production transmission, or distribution of energy, water, or communications systems;

- transportation and sewer or wastewater treatment systems;

- a public body or agency, public building; and

- private property or persons.

The KOMA also is amended to extend the time frame for the Attorney General or county or district attorney to bring a lawsuit to void an action taken by a public body in violation of KOMA from 10 to 21 days.

<http://www.kslegislature.org/cgi-bin/signed-enrolledbills/index.cgi>

## **Postsecondary Education**

**HB 2795** amends a number of statutes and enacts new law relating to postsecondary education. Statutes amended by the bill pertain to compulsory school attendance, community college out-district tuition, Learning Quest, the foster care tuition waiver program, and technical colleges and schools. The bill enacts new law: the Kansas Private and Out-of-State Postsecondary Institution Act and prohibition of the use of social security numbers as identification numbers under certain circumstances.

### ***Compulsory School Attendance***

The bill amends the state's compulsory school attendance law to exempt children who are 16 or 17 years of age and enrolled concurrently in a high school and in a Regents' university, community college, technical college, vocational education school, or Washburn University from statutory school attendance requirements. The exemption applies retroactively to persons who met those concurrent enrollment requirements from and after July 1, 1997, when the maximum compulsory school attendance age was increased from 16 to 18. The bill also defines a regularly enrolled student as one who is in attendance at least five hours per day.

### ***Out-district Tuition***

The bill defers from FY 2005 to FY 2006, the third year of the four-year phase-out of out-district tuition paid to community colleges and Washburn University. Under the bill, out-district tuition payments will not be completely eliminated until FY 2007.

### ***Learning Quest Postsecondary Education Savings Program***

The bill amends statutes providing income tax deductions for persons who contribute to Learning Quest postsecondary education savings accounts. The bill increases the maximum income tax deduction for contributions from \$2,000 to \$3,000 for individuals and from \$4,000 to \$6,000 for married couples filing jointly for each beneficiary beginning in tax year 2005.

### ***Tuition Waiver for Foster Care Children***

The bill amends statutes that create the tuition waiver program for children in the foster care system. The bill increases, from three to five per year, the number of new tuition waivers that can be granted by an educational institution. In addition, Washburn University is added to the list of participating educational institutions.

Under prior law, participants in the tuition waiver program must have been in the foster care system on their 18th birthday and have graduated from high school or

attained a general education development (GED) certificate while in foster care. Eligibility requirements for participation are expanded by the bill to include: Individuals who left the foster care system prior to their 18th birthday and graduated from high school or attained a GED certificate while in foster care; and

Individuals who were adopted from the foster care system on or after their 16th birthday.

The bill limits eligibility for the tuition waiver until the semester the student turns 21 years old. Prior law did not establish an age limit for participation. The bill requires the Department of Social and Rehabilitation Services (SRS) to approve the eligibility of each candidate.

The bill requires that refunds paid when an eligible student discontinues attendance be returned to the original source of funding. Thus, if the original source is federal funding transferred from SRS, any refund will be returned to SRS. Under prior law refunds were credited to a tuition waiver reimbursement fund administered by the Board of Regents.

The bill requires the Board of Regents to certify that 20 percent of the total amount required to pay claims received from educational institutions for tuition waivers be cash, in-kind contributions, State General Fund moneys, or non-federal funds that are not used to match other funds.

Annual expenditures by the SRS for the tuition waiver program are limited to a maximum of 30 percent of the amount of the total federal award. The prior law contained no such expenditure limitation.

The bill also amends an eligibility criterion for the Workforce Development Loan Act by requiring that an individual seeking the foster care priority for receipt of a loan be in the foster care system on his or her 18th birthday. Prior law allowed granting of priority status if the individual was in the foster care system prior to his or her 18th birthday.

### ***Distribution of Postsecondary Aid for Technical Schools***

The bill amends statutes governing the distribution of postsecondary aid for technical schools to require equal distributions of aid on August 1 and January 1. Under prior law, 50.0 percent of the funding was distributed on November 1; 30.0 percent on March 1; and 20.0 percent on May 1.

### ***Powers and Duties of Technical College Governing Boards***

The bill amends statutes relating to the establishment of separate governing boards for technical colleges. The bill expands the powers and duties of those governing bodies to include:

Having custody of the property of the college and being responsible for operation and management of the college;  
Selecting a chair and officers of the governing body;  
Suing and being sued;  
Setting the compensation of a president or chief administrative officer of the college;  
Establishing qualifications, duties, compensation, and other conditions of employment;  
Entering into contracts;  
Accepting gifts, grants, and donations;  
Acquiring and disposing of real or personal property;  
Entering into lease agreements;  
Adopting rules and regulations necessary for administration of the college;  
Contracting for provision of academic or vocational education for the students of the college;  
Appointing either the president of the college or the chairperson of the governing board as resident agent for the purpose of service of process; and  
Taking other legal actions.

### ***Private and Out-of-State Postsecondary Institutions Act***

The bill enacts the “Kansas Private and Out-of-State Postsecondary Institutions Act” by consolidating statutory provisions governing proprietary schools and private postsecondary institutions and extending to certain private and out-of-state institutions provisions that formerly applied only to proprietary schools. As under prior law, the Kansas Board of Regents is responsible for administering statutory requirements for these institutions. The bill also enacts enforcement provisions applicable to out-of-state and private schools and creates new fees for issuance of certain certificates required under the Act.

The bill’s provisions apply to:

Any postsecondary schools conducting business in Kansas that are organized under the law of a jurisdiction outside Kansas; and

Private postsecondary institutions that are profit making, or non-profit schools with a physical presence in Kansas or which solicit business in Kansas. For purposes of this bill, private institutions include entities that offer courses through classroom contact or via correspondence, audio, video, or computer technology.

An institution is deemed to have a “physical presence” in Kansas if it employs in the state a Kansas resident to conduct activities on its behalf. An institution also is considered to have a physical presence in Kansas if it delivers, or plans to deliver, instruction in Kansas and receives assistance delivering that instruction from another organization in the state. Assisting organizations specifically enumerated in the Act include, but are not be limited to, cable television companies and television broadcast stations that carry instruction sponsored by the institution. Both categories of schools to which the bill applies are referred to as “institutions.” Entities exempt from the Act are

those that were exempt from prior statutory requirements for registration with or certification by the Board of Regents.

The bill prohibits anyone from:

Operating an institution without a certificate of approval from the Board of Regents;  
Soliciting prospective students without being registered under the Act;  
Accepting contracts or enrollment applications from a representative who is not registered;  
Using fraud or misrepresentation in advertising or in procuring enrollment of a student;  
Using the term "accredited" except as defined by the Act; and

Using the term "university" in the name or advertisement of the institution unless the institution meets the definition of that term in the Act.

The bill makes certain policy changes:

In general, policies embodied in prior law governing proprietary schools are extended to private and out-of-state institutions.

With the exception of setting fees, the Board of Regents is authorized, but not required, to adopt rules and regulations to implement the Act. Under prior law, the Board was required to establish implementing rules and regulations.

Standards for determining institutions that qualify for approval to confer or award degrees are no longer to be established in rules and regulations. The existing requirement that any such standards be consistent with those applicable to state educational institutions is unchanged by the new Act.

Composition of the Advisory Commission on Private and Out-of-State Postsecondary Institutions created by the Act differs from the existing advisory commission by inclusion of at least one representative of a degree granting institution. In addition, categories from among which four of the commission's nine members must be selected include the employment community and economic development. Agriculture and organized labor will no longer be included among those categories.

The Advisory Commission will no longer be required, but will continue to be authorized, to make recommendations to the Board of Regents regarding administration of the Act.

The bill specifically prohibits use of the term "accredited" unless an institution is accredited by an agency recognized by the U.S. Department of Education. Use of the term "university" also is prohibited unless the entity describing itself as such is an institution of postsecondary education authorized by the Board of Regents to offer bachelor degrees and graduate or first professional degrees.

The bill establishes new maximum fees for certification of degree granting institutions. The Board of Regents is required to set fees in rules and regulations subject to those maximums. The new maximum fees are:

For Kansas-based institutions:	
Initial issuance of certificate of approval	\$2,000
Renewal of certificate of approval	\$1,600
For out-of-state institutions:	
Initial issuance of certificate of approval	\$3,800
Renewal of certificate of approval	\$2,800

The new maximum fee for initial issuance of a certificate of approval for a degree granting institution is \$300 higher than the former initial certification fee for a non-degree granting institution. The other new maximum fees are \$400 higher than the counterpart fees for non-degree granting institutions. Finally, the bill authorizes the Board to charge an unspecified fee for conduct of onsite reviews for degree granting institutions or to review curricula in content areas in which the Board does not have expertise.

A violation of the Act would be a class C nonperson misdemeanor. Under prior law that was the penalty for violation of the proprietary school statutes, but prior law governing out-of-state and private schools did not include a similar penalty. The remedy available to the Board under the prior out-of-state and private school laws—requesting that the Attorney General seek an injunction or order directing compliance with the Act—is expanded to cover proprietary schools. Thus, either the Attorney General or a County or District Attorney may apply for an injunction to prevent or stop a violation of the Act. If a court finds that a person willfully used a deceptive or misleading act or practice, the Attorney General or a County or District Attorney may petition the court to impose a maximum \$1,000 civil penalty for each violation of the Act.

The provision in the prior proprietary school law regarding notes and contracts is extended to apply to out-of-state and private schools. In accordance with that provision, if an institution is not in compliance with the Act, contracts taken by the institution or its officers, directors, agents or representatives are null and void. Any person who enters into a contract with such an institution, its officers, directors, agents or representatives is entitled to full refund of any money or consideration paid, plus interest, and damages.

***Prohibiting Use of Social Security Numbers for Student and Employee Identification Numbers***

Beginning July 1, 2006, the bill prohibits postsecondary educational institutions from using a student’s or employee’s social security number on the individual’s identification card or encoding the number in a magnetic strip or elsewhere on the card. The bill also prohibits those institutions from basing an individual’s new identification number on the person’s social security number.

<http://www.kslegislature.org/cgi-bin/signed-enrolledbills/index.cgi>

## License Plates

**HB 2947** reenacts 2004 Sub. for HB 2143 which was signed into law on April 21, 2004. The reenactment was required because the bill signed by the Governor contained an engrossing error. The bill amends statutes that established procedures and requirements for issuance of distinctive license plates. The bill authorizes issuance of distinctive license plate decals for recipients of the Bronze Star and Silver Star and decals that identify branch of military service for persons with veterans' plates. The bill also authorizes issuance of firefighters' and "Helping Schools" distinctive license plates. Finally, the bill repeals authority for a distinctive license plate for public safety employees.

### **Persons or Organizations Requesting Distinctive License Plates**

The bill requires any person or organization sponsoring a distinctive license plate authorized by the Legislature after June 30, 2004, to submit to the Division of Vehicles a non-refundable deposit to defray the Division's cost of developing the requested plate. The amount of the deposit will be set by the Division but could not exceed \$10,000. Except for the deposit for "Helping Schools" plates, the bill provides that deposits will be credited to the Distinctive License Plate Fund in the State Treasury. These moneys may be used by the Department of Revenue only for development of distinctive license plates.

### **New Distinctive License Plates Authorized**

The bill authorizes issuance of two new distinctive license plates.

A "Helping Schools" license plate could be issued beginning January 1, 2005, if sufficient plates are ordered to guarantee an initial issuance of at least 500. Persons who obtain these plates will not have to pay the personalized license plate fee that is applied to most other distinctive license plates, but will pay an annual \$40 royalty fee.

The State Board of Education, with the approval of the Division of Vehicles, will design the authorized plate. The "Helping Schools" plate cannot be developed by the Division of Vehicles until the State Board of Education has collected sufficient royalty payments to cover the deposit required by the Division for development of the plate (a maximum of \$10,000).

The annual royalty payment for each license plate issued will be earmarked for a particular school district by the person to whom the license plate is issued. Royalty payments will be deposited in the Helping Schools License Plate Program Fund in the State Treasury.

Moneys credited to the Fund, except for expenses for development of the license plate and administrative costs, will be allocated and distributed annually on or after July 1, to designated school districts

and used to purchase elementary and secondary classroom supplies and equipment.

Moneys distributed to school districts from the Fund will be considered donations for purposes of school district budgeting and accounting as described by existing law.

The bill authorizes, as of January 1, 2005, issuance of distinctive license plates for firefighters. Development and issuance of these plates is subject to general requirements for the development deposit, personal license plate fee, and minimum 500 initial issuance guarantee applicable to other distinctive plates.

### **Discontinuance of Currently Authorized Distinctive Plates**

Except for educational institution plates issued pursuant to prior law, the bill requires the Director of Vehicles to discontinue any distinctive plates authorized between July 1, 1995 and July 1, 2004, if:

fewer than 500 plates, including annual renewals, are issued by July 1, 2006; and

fewer than 250 plates, including annual renewals, are issued during any two-year period after July 1, 2006.

Educational institution plates (those issued for a Regents university, Washburn, a private college, community college, or Haskell University) will be discontinued by the Director of Vehicles if:

fewer than 500 plates, including annual renewals, are issued for an educational institution by the end of the second year of sales; and

fewer than 250 plates, including annual renewals are issued for an institution in any subsequent two-year period.

### **Discontinuance of Newly Authorized Distinctive Plates**

The bill requires the Director to discontinue issuance of distinctive plates authorized after June 30, 2004, if:

fewer than 500 plates, including renewals, are issued by the end of the second year of sales; and

fewer than 250 plates, including renewals, are issued during any subsequent two-year period.

## **License Plate Decals**

The bill authorizes the Director of Vehicles to provide, after December 31, 2004, a distinctive decal for any person who has been issued a military veteran plate and who has been awarded a Bronze or Silver Star. Distinctive license plate decals also will be available to indicate the branch of the service in which the veteran served. Each decal will cost \$2.

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