

SESSION OF 2017

**THIRD CONFERENCE COMMITTEE REPORT BRIEF  
SENATE BILL NO. 19**

As Agreed to June 5, 2017

**Brief\***

SB 19 would make appropriations for the Department of Education (KSDE) for FY 2018 and FY 2019; enact the Kansas School Equity and Enhancement Act; add a section requiring KSDE to produce a report concerning school district revenues, expenditures, and demographics; and amend the Tax Credit for Low Income Students Scholarship Program, the Virtual School Act, and statutes related to Capital Improvement State Aid and capital outlay.

***Kansas School Equity and Enhancement Act***

The Kansas School Equity and Enhancement Act (Act) would provide for State Foundation Aid (SFA) to be provided to school districts. SFA would be calculated by multiplying the base aid for student excellence (BASE) by the adjusted enrollment of the district and deducting the local foundation aid of the district. The adjusted enrollment of the district would be calculated by adding the weighted enrollments for at-risk students, declining enrollment, high-density at-risk students, bilingual, low enrollment, high enrollment, new school facilities, ancillary school facilities, cost of living, special education and related services, career technical education, and transportation to the enrollment of the district. The BASE would be set at \$4,006 for school year 2017-2018, \$4,128 for school year 2018-2019, and adjusted each year

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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/kldr>

thereafter according to the average percentage increase in the Consumer Price Index (CPI) for all urban consumers for the Midwest region during the three immediately preceding school years.

The Act would also allow any district to adopt a local option budget (LOB) by resolution of the school board. The LOB would be capped at 33.0 percent of the product of the BASE and the adjusted enrollment of the district. In any year in which the BASE is less than \$4,490, the LOB would be capped at 33.0 percent of the product of the \$4,490 and the adjusted enrollment of the district. Beginning in school year 2019-2020, the BASE aid amount allowed to be used to calculate LOB authority would increase based on a three-year CPI average. Any district adopting an LOB in excess of 30.0 percent would be subject to protest petition.

Finally, the Act would define key terms, charge the State Board of Education (KSBE) with developing and implementing a school accreditation system and with conducting a cost study of career and technical education programs, give the KSBE authority to adopt rules and regulations to administer the Act, and provide for several performance audits by the Legislative Division of Post Audit (LPA). The provisions of the Act would not be severable and would expire July 1, 2027.

### *Enrollment*

The enrollment of a school district would be the number of students regularly enrolled at the district on September 20 of the preceding school year. If the enrollment of the district the preceding school year decreased from enrollment in the prior year, the enrollment would be the enrollment of the district from the second preceding school year. A third enrollment option would be available for school districts that have military students and are receiving federal impact aid, allowing them to use the average enrollment of the three preceding school years.

Students who are not Kansas residents would be counted as 1.0 full-time equivalent (FTE) in school years 2017-2018 and 2018-2019, as 0.75 FTE in school years 2019-2020 and 2020-2021, and as 0.5 FTE in subsequent years. Out-of-state students whose parents or legal guardians are employed by the district or who were enrolled in the school district during the preceding school year would continue to be counted as 1.0 FTE.

Students enrolled in kindergarten full time would be counted as 1.0 FTE. Formerly, kindergarten students were counted as 0.5 FTE. Students enrolled in kindergarten in a school district in the preceding school year would be counted as 1.0 FTE, regardless of actual attendance during the preceding year.

#### *At-Risk Student Weighting*

The at-risk weighted enrollment of the district would be determined by multiplying the number of students eligible for free meals under the National School Lunch Act by 0.484. Any school district maintaining kindergarten through 12th grade would be allowed to substitute 10.0 percent of the district's enrollment multiplied by 0.484 for the purposes of this weighting.

For school year 2018-2019 and subsequent years, the bill would require those funds be used for at-risk education programs and services contracted for to provide such programs based on programs identified and approved by KSBE as evidence-based best practices. The bill would also replace "at-risk student" with "students identified as at-risk" in the subsection requiring each local board to submit a report to KSBE concerning such services.

### *Bilingual Weighting*

The bilingual weighted enrollment of a district would be the greater of the FTE enrollment based on hours of contact in bilingual education programs multiplied by 0.395 or the number of students enrolled in bilingual programs multiplied by 0.185.

### *Low Enrollment Weighting*

Low enrollment weighting would be available to districts with fewer than 1,622 students enrolled. For such districts, the weighting would be calculated on a linear transition: districts with 100 or fewer students would receive a weighting of approximately 101.4 percent of the enrollment of the district, and that amount would transition to approximately 3.5 percent of the enrollment of the district as the enrollment approaches 1,622 students.

### *High Enrollment Weighting*

High enrollment weighting would be available to districts with more than 1,622 students and would be a weighting of approximately 3.5 percent of enrollment of the district.

### *High-Density At-Risk Weighting*

If the enrollment of a school or school district is at least 50.0 percent at-risk students, the school or school district would receive high-density at-risk weighting equal to 10.5 percent of the at-risk students of the district. If the enrollment of a school or school district is between 35.0 percent at-risk students and 50.0 percent at-risk students, the school or school district would receive high-density at-risk weighting on a linear transition downwards from 10.5 percent of the at-risk students of the district. The high-density at-risk weighting would be scheduled to expire July 1, 2019.

Beginning with school year 2018-2019, the bill would require school districts to spend those funds on at-risk programs and instruction of students receiving at-risk program services identified and approved by the KSBE as evidence-based best practices. The KSBE would notify districts that do not spend the money on such best practices they must either spend such money on best practices or show improvement within three years of notification. Among other factors, improvement could be shown by the percentage of students at grade level or college and career ready on state math and English language arts assessments, average composite ACT scores, or the four-year graduation rate. Districts that do not spend money on best practices and fail to show improvement within five years would not qualify to receive the weighting in the succeeding school year.

#### *Transportation Weighting*

The transportation weighting of a school district would be determined by multiplying the formula per-student transportation cost of the district by the number of students who reside at least 2.5 miles from the school building they attend and are provided transportation to the school building by the district. The per-student transportation cost of the district would be determined using the curve of best fit of a density-cost graph of the index of density of all school districts in the state. A four-year grandfather clause would be provided to districts that would receive less funding pursuant to the transportation weighting than they did during the 2016-2017 school year.

#### *Career Technical Education Weighting*

The career technical education weighting of a school district would be determined by multiplying the FTE enrollment in approved career technical education programs by 50.0 percent. This weighting would be scheduled to sunset July 1, 2019, and KSDE would be directed to study the costs

of the delivery of career technical education programs and report the findings of such study on or before January 15, 2018.

#### *New School Facilities Weighting*

The new school facilities weighting of a school district would be determined by multiplying the number of students enrolled in a new school facility by 25.0 percent. A new school facility would be a school facility in its first two years of operation that was financed primarily with bonds approved at an election held on or before July 1, 2015.

#### *Cost-of-Living Weighting*

The bill would allow school districts in which the average appraised value of a single-family residence is more than 25.0 percent higher than the statewide average value to apply for additional funding from the KSBE in an amount not to exceed 0.05 percent of the district's foundation aid. The local school board would be required to pass and publish a resolution authorizing the levy, subject to protest petition, and the district also must have an LOB of 31.0 percent. The entirety of this weighting would be financed by local property taxes.

#### *Ancillary School Facilities Weighting*

A school district would be permitted to apply to the State Board of Tax Appeals (BOTA) for authority to levy local property taxes for the purpose of financing the costs attributable to commencing the operation of a new school facility that is in excess of the amount that is financed by any other source. The amount to be levied for this weighting would be reduced over a period not to exceed six years. The entirety of this weighting would be financed by local property taxes.

### *Declining Enrollment Weighting*

The declining enrollment weighting would be available to school districts that have lost revenues due to the declining enrollment of the district. The district would be required to apply to the BOTA for authority to receive this weighting, and the weighting would be capped at 5.0 percent of the general fund budget of the district. For school year 2017-2018, a district could receive declining enrollment weighting equal to one half of the amount the district generated pursuant to the weighting in school year 2007-2008. The declining enrollment weighting would expire at the end of the 2017-2018 school year. The entirety of this weighting would be financed by local property taxes.

### *Special Education and Related Services Weighting*

The special education and related services weighting would be calculated for each district by dividing the amount of special education and related services payments of state aid made to the district by the BASE.

### *Legislative Studies*

The bill would require the House and Senate Committees on Education to review the high and low enrollment weighting and alternatives to such weightings, including a sparsity weighting on or before July 1, 2018; virtual schools on or before July 1, 2020; the at-risk weighting and the BASE on or before July 1, 2021; the successful schools model on or before July 1, 2023, and on or before July 1, 2026; and the bilingual weighting on or before July 1, 2024.

### *Local Foundation Aid*

Local Foundation Aid would include the unencumbered balance of the general fund of a district; certain grants received by district, special education and related services aid; any tuition for non-resident pupils of a district; and 70.0 percent of the federal impact aid received by a district. These categories were commonly referred to as “local effort” under previous law.

### *Reauthorization of the 20-Mill Levy*

The bill would reauthorize the statewide 20-mill school finance levy for school years 2017-2018 and 2018-2019. The first \$20,000 of assessed valuation of residential properties would continue to be exempt from this levy.

### *Supplemental General State Aid*

Supplemental General State Aid would be paid to any district that has adopted a local foundation budget. The amount of aid a district would be eligible to receive would be determined by multiplying the district’s local foundation budget by an equalization factor that equalizes all districts below the 81.2 percentile of assessed valuation per pupil (AVPP) up to that percentile. For school year 2017-2018, the AVPP used would be that of the immediately preceding school year. For school year 2018-2019, the AVPP used would be an average of the AVPPs of the three immediately preceding school years.

### *Accreditation*

The Act would require the KSBE to design and adopt a school district accreditation system based on improvement in performance that equals or exceeds the educational goals known as the “Rose capacities,” which are codified at KSA



2016 Supp. 72-1127, and is measurable. The Act would also require the KSBE to report to the Governor and Legislature on or before January 15 of each year regarding the school district accreditation system.

#### *KSDE School District Report*

The bill would require KSDE to develop an annual report for each school district reflecting the total amount of revenues received by each district from federal, state, and local sources each year, with certain categories of revenue being specifically identified. The report would also include total expenditures for certain programs and services and the following demographic information: gender, race, ethnicity, economically disadvantaged students, migrant students, English language learners, and disability.

#### *LPA Performance Audits*

The Act would also require LPA to perform several performance audits in the future and provide the final audit report for each to the House and Senate Committees on Education. Topics of required audits would include virtual school programs; the cost of providing educational opportunities to every public school student in Kansas to achieve the performance outcome standards adopted by the KSBE; at-risk education, bilingual education, and transportation funding; and the best practices of successful schools. The House and Senate Committees on Education would be required to review these reports.

#### *Virtual School State Aid*

Virtual School State Aid would be paid to school districts operating virtual schools. \$5,000 per student would be paid for students under the age of 19 enrolled in a virtual school on a full-time basis. \$1,700 would be paid for each FTE

student enrolled in a virtual school on a part-time basis. For students 19 years of age and older, aid would be paid at a rate of \$709 per credit hour earned, not to exceed six credit hours earned by any one student in any one school year.

***Tax Credit for Low Income Students Scholarship  
(TCLISS) Program Act***

On and after July 1, 2018, the bill would amend the definition of “public school” within the TCLISS Program Act to mean a school identified by the State Board as one of the lowest 100 performing schools with respect to student achievement. It would also amend the definition of “qualified school” to require accreditation on and after July 1, 2020. Accreditation must be by KSBE or a KSBE-recognized national or regional accrediting agency. Additionally, the bill would expand eligibility for the tax credit to individuals, and place an annual cap of \$500,000 on contributions.

***Capital Outlay Changes***

The bill would allow capital outlay funds to be used for utility expenses and property and casualty insurance. Additionally, the bill would allow capital outlay funds to be used for construction, reconstruction, repair, remodeling, additions to, furnishing, maintaining, and equipping computer software, performance uniforms, building sites, school buses, and other fixed assets. The law already allowed for acquisition of these items using capital outlay funds.

Beginning in school year 2017-2018, any new property tax exemptions granted by BOTA for property financed by industrial revenue bonds (IRBs) or for economic development purposes pursuant to Article 11, Section 13 of the *Kansas Constitution*, for which the public hearing was not held prior to May 1, 2017, would no longer apply to the capital outlay mill levy. Previously exempted property would continue to be eligible for exemption from the levy.

Beginning July 1, 2017, school districts would receive the revenue generated by the capital outlay mill levy on the incremental valuation growth in newly created Neighborhood Revitalization Areas.

### ***Capital Improvement Changes***

For all bond issuances approved at an election on or after July 1, 2017, any district with an enrollment of less than 260 students would not be eligible for Capital Improvement State Aid unless that district received approval from the KSBE prior to holding an election to approve the issuance of bonds.

Additionally, in determining the amount of payments a school district is obligated to make for bond issuances approved at an election on or after July 1, 2017, KSBE would exclude payments for any capital improvement project, or portion thereof, that proposes to construct, reconstruct, or remodel a facility that would be used primarily for extracurricular activities, unless a State Fire Marshal report, inspection under the Americans with Disabilities Act, or other similar evaluation demonstrates the project is necessary due to concerns relating to safety or disability access.

Beginning July 1, 2017, in each fiscal year, KSBE would be allowed to approve for election only bond issuances exceeding 14.0 percent of the district's assessed valuation for the election to the extent of the aggregate amount of bonds retired by school districts in the state in the preceding year. A school district that has not passed a bond election in the past 25 years would not be subject to this limitation.

### ***Appropriations***

The bill would provide \$1.991 billion in general state aid from the State General Fund (SGF) for FY 2018 and \$2.047 billion in general state aid from the SGF for FY 2019. For FY 2018, \$480.9 million of supplemental general state aid would

be appropriated from the SGF, and for FY 2019, \$486.1 million of supplemental general state aid would be appropriated from the SGF. Appropriations would also be made for KSDE operations, special education state aid, and KPERS employer contributions for school districts from the SGF for both fiscal years.

### **Conference Committee Action**

The third Conference Committee agreed to the conference committee report produced by the second Conference Committee, absent the provisions concerning income and sales tax and the provision that would have made the bill effective upon the date SB 30 became effective.

The second Conference Committee agreed to replace the contents of SB 19, pertaining to the regulation of reinsurance, with the contents of Senate Sub. for HB 2186, as amended by the Senate Committee of the Whole, concerning K-12 school finance, with the following amendments:

- Remove specific appropriations for each weighting;
- Adopt the House BASE amount of \$4,128 in school year 2018-2019;
- Make a technical amendment to the third option of using a three-year average for military students;
- Amend how out-of-state students are counted;
- Use an at-risk weighting of 0.484;
- Place a two-year sunset on the provisions of the high-density at-risk weighting;

- Effective school year 2018-2019, require at-risk funds to be spent on best-practices programs and services, as identified by the KSBE;
- Use a four-year, rather than a two-year, grandfather clause for districts that would receive less transportation funding than they did during the 2016-2017 school year;
- Require committee review of virtual schools in 2020, the BASE by July 1, 2021, and the successful schools model on or before July 1, 2023, and on or before July 1, 2026, and remove the requirement that the Act be reviewed every ten years;
- Remove language that would have distributed \$12.0 million in special education services aid based on the FTE enrollment of each school district;
- Remove a sunset for virtual school state aid;
- Adopt the House's schedule for audits as outlined in Sub. for HB 2410 (see background for this bill below);
- Remove the requirement from the TCLISS Program that 50 percent of students be direct certified, expand eligibility for the tax credit to individuals, and place an annual cap of \$500,000 on individual contributions;
- Remove provisions concerning economic development and IRB abatement of the 20-mill levy;
- Limit KSBE approval of elections for bond issuance; and

- Remove language amending the policy goal of spending 65.0 percent of money appropriated, distributed, or otherwise provided by the State in the classroom or for instruction.

## **Background**

SB 19 previously addressed the regulation of reinsurance. The provisions previously contained in SB 19 were subsequently adopted as part of the Conference Committee report for SB 16, which was signed into law on May 15. SB 19 as described here includes provisions from Senate Sub. for HB 2186, Sub. for HB 2410, and tax provisions added directly by the second Conference Committee. The third Conference Committee removed the tax provisions from the bill.

SB 19 is expected to reduce SGF receipts by \$9.0 million per year beginning in FY 2018.

### ***Senate Sub. for HB 2186***

HB 2186, as introduced, would have repealed the existing Uniform Arbitration Act and replaced it with the Uniform Arbitration Act of 2000. The House Committee of the Whole added provisions related to teachers' due process procedures. The Senate Select Committee on Education Finance replaced the contents of HB 2186 with the revised contents of SB 251.

### ***SB 251; Senate Sub. for HB 2186***

House Sub. for SB 7 (2015) repealed the School District Finance and Quality Performance Act, which had been the primary mechanism for the financing of schools in Kansas since 1992, and replaced it with the Classroom Learning

Assuring Student Success Act, scheduled to sunset June 30, 2017.

SB 251 was introduced by the Senate Committee on Ways and Means. In the Senate Select Committee on Education Finance hearing, testimony was provided by Senators Givens and Petersen and representatives of several public, private, and virtual schools; the Alliance for Childhood Education; Kansas Association of School Boards; Kansas National Education Association; Kansas Parent Teacher Association; Kansas Policy Institute; Kansas School Superintendents Association; MainStream Coalition; Schools for Fair Funding; and United School Administrators. Testimony related to economic development and a proposed school funding fee on utilities was provided by a local attorney and representatives of AARP; Americans for Prosperity; the cities of Edgerton, Edwardsville, Olathe, Pittsburg, and Wichita; the Climate & Energy Project; Colt Energy; Eastern Kansas Oil & Gas Association; Kansas Association of Realtors; the Kansas Economic Development Association; Kansas Farm Bureau; Kansas Gas Service; Kansas Independent Oil & Gas Association; Kansas Livestock Association; Kansas Water Authority; the League of Municipalities; Lenexa Chamber of Commerce; the Overland Park Chamber of Commerce; Spirit Aerosystems; WaterOne; and the Wichita Regional Chamber of Commerce.

The Senate Committee adopted numerous amendments to the bill and created a substitute bill (Senate Sub. for HB 2186). The Senate Committee adopted amendments removing provisions that would have assessed a monthly school funding fee on utilities, specified out-of-state students would not be counted as students for purposes of enrollment, and sunset the bilingual and at-risk weightings, as well as adopted technical amendments. The Senate Committee also amended language concerning kindergarten students; the at-risk, bilingual, high-density at-risk, and career and technical education weightings; special education services aid; the KSDE School District Report; performance audits to be conducted by LPA; and the TCLISS Program.

The Senate Committee of the Whole amended Senate Sub. for HB 2186 to:

- Count students who are not Kansas residents as 0.75 FTE in the 2017-2018 school year and as 0.5 FTE in subsequent years, and increase funding for education of at-risk preschool-aged children by \$1.0 million in FY 2018 and FY 2019;
- Increase an option for the bilingual weighting based on contact hours from 0.361 to 0.395;
- Sunset the Act on July 1, 2027, and require Legislative review of the Act or any successor school finance act on and after July 1, 2027, and every ten years thereafter; and
- Revise the public policy goal of spending 65.0 percent for the classroom or for instruction to increase the amount to 75.0 percent and amending the definition of “instruction.”

[*Note:* The Conference Committees made further changes to these provisions as noted above.]

Relative to *The FY 2018 Governor’s Budget Report*, Senate Sub. for HB 2186 would have provided an additional \$211.9 million of SGF spending for schools in FY 2018 and an additional \$319.1 million of SGF spending for schools in FY 2019.

***Sub. for HB 2410***

HB 2410 was introduced by the House Committee on Appropriations at the request of the Chairperson of the House Committee on K-12 Education Budget. In the House Committee on K-12 Education Budget hearing, testimony was provided by representatives of several school districts and virtual schools, the Alliance for Childhood Education, Game



on for Kansas Schools, Kansas Association of School Boards, Kansas National Education Association, Kansas Parent Teacher Association, Kansas Policy Institute, League of Women Voters, Mainstream Coalition, and the Overland Park Chamber of Commerce.

The House Committee adopted numerous amendments to the bill and created a substitute bill. The House Committee adopted amendments, including those concerning the BASE aid amount; counting kindergarten students as full-time students; the LOB; the transportation, low enrollment and high enrollment, bilingual, at-risk, new school facilities, and career and technical education weightings; performance audits to be conducted by LPA; applied behavioral analysis (ABA) therapy for students who have been diagnosed with an autism spectrum disorder (ASD); and the TCLISS Program.

The House Committee advanced the bill, without recommendation, to the House Committee of the Whole for consideration.

The House Committee of the Whole adopted amendments to:

- Remove the ABA therapy mandate for students diagnosed with an ASD;
- Eliminate the Local Excellence Budget (LEB) and restore the cost-of-living weighting;
- Move an appropriation of \$2.6 million for Local Excellence State Aid to the newly established School District Extraordinary Declining Enrollment Fund, to be disbursed by the KSBE to districts that demonstrate extraordinary declining enrollment since school year 2014-2015;
- Restore references to the term “Local Option Budget,” rather than the term “Local Foundation Budget”;

- Use the current year headcount for kindergarten students in school year 2017-2018;
- Return to the former method for military count dates; and
- Adopt other technical amendments.

[*Note:* The Conference Committees made further changes to these provisions as noted above.]

Relative to *The FY 2018 Governor's Budget Report*, Sub. for HB 2410 would have provided an additional \$226.8 million of SGF spending for schools in FY 2018 and an additional \$370.0 million of SGF spending for schools in FY 2019.

K-12 education; school finance

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