

Education Appropriations and Program Changes; HB 2134

HB 2134 makes appropriations for the Kansas State Department of Education (KSDE) for FY 2021, FY 2022, and FY 2023; limits remote learning hours based on emergency circumstances of the individual student and school district; provides a different calculation for school finance related to remote learning; directs school districts to use needs assessment to ensure improvement in student academic achievement; amends the Kansas Challenge to Secondary School Students Act as it relates to dual and concurrent enrollment; amends law regarding the providing of the ACT, pre-ACT, and WorkKeys assessment to Kansas students; expands the Tax Credit for Low Income Students Scholarship Program; and directs KSDE to collaborate with the Department for Children and Families (DCF) to create a Kansas foster care children annual academic report card.

Appropriations for FY 2021, FY 2022, and FY 2023—KSDE

FY 2021

The bill modifies the State General Fund (SGF) appropriation, in FY 2021, for KSDE. The bill authorizes the following moneys appropriated from the SGF to be lapsed in FY 2021:

- \$2.0 million for the Kansas Public Employees Retirement System (KPERs) non-unified school districts (USDs);
- \$6.9 million for the KPERs-USDs;
- \$1.2 million for the Mental Health Intervention Team (MHIT) Pilot Program;
- Any unencumbered balance in the Education Super Highway Account;
- \$782,064 for the School District Juvenile Detention Facilities and Flint Hills Job Corps Center Grants;
- \$140,755 for the Governor’s Teaching Excellence Scholarships and Awards; and
- \$18.9 million for State Foundation Aid.

FY 2022

The bill appropriates \$2.8 billion, including \$1.2 billion SGF, for FY 2022 for KSDE. Major SGF appropriations include:

- \$14.1 million for operating expenditures;
- \$41.9 million for KPERs-non-USDs;

- \$538.0 million for KPERS-USDs;
- \$25.8 million for KPERS layering payments;
- \$78.5 million for Capital Outlay State Aid;
- \$2.8 million for the ACT and WorkKeys Assessments Program;
- \$7.5 million for the MHIT Pilot Program;
- \$5.1 million for the School District Juvenile Detention Facilities and Flint Hills Job Corps Center Grants;
- \$512.9 million for Special Education Services Aid; and
- \$2.4 million for Supplemental State Aid.

The bill also appropriates funding from several no limit special revenue funds, including federal funds and fee funds, including \$32.7 million from the Children’s Initiatives Fund and \$41.1 million from the Expanded Lottery Act Revenues Fund for KPERS-non-USDs.

The bill directs KSDE to expend \$80,000 for the Center for READING project manager grant for FY 2022, all from federal funds received under COVID-19-related legislation. If federal funds cannot be used for the grant, then SGF moneys must be used. The bill requires such project manager or managers to assist in the development and support of a Science of Reading curricula for State Board of Regents institutions based on the Knowledge and Practice Standards set by KSDE. The Center for READING will also develop and support resources—including a textbook, professional development, and a list of qualified trainers—for school districts.

The bill provides for several transfers and allows the Commissioner of Education to transfer any part of an appropriation from the SGF to another SGF item of appropriation in KSDE.

The bill lapses \$3.3 million of the \$2.4 billion appropriated in SB 66, the 2020 appropriations bill, from the SGF for State Foundation Aid for FY 2022. SB 66 (2020) also appropriated \$521.2 million, all SGF, for Supplemental State Aid. The lapse of SGF for State Foundation Aid and added funding for Supplemental State Aid are due to the adoption of the full 2020 Education Consensus Estimates.

The bill directs KSDE to expend \$5.0 million for School Safety and Security Grants, \$3.9 million for expanding the MHIT Pilot Program, and \$100,000 for the Communities in Schools program, all from federal funds received under federal COVID-19-related legislation, unless the program would not qualify for the federal funds.

The bill further states the Legislature’s recommendation that school districts provide additional compensation, of up to \$500, to classroom teachers, paraprofessionals, and other

school district hourly employees from federal moneys received under federal COVID-19-related legislation for extra duties performed during the pandemic. The bill defines “classroom teacher.”

FY 2023

The bill appropriates from the SGF for FY 2023 \$2.5 billion for State Foundation Aid and \$534.1 million for Supplemental State Aid. The bill also authorizes expenditures from the State School District Finance Fund and the Mineral Production Education Fund.

Foster Care Report Card

The bill requires KSDE and DCF collaborate to create an annual foster care report card, which will be submitted to the House and Senate standing committees on education by January 15 each year. The report must include the following information regarding children in foster care:

- Graduation rate;
- State standardized assessment scores;
- Total and disaggregated number enrolled in a school district or accredited nonpublic school;
- De-identified disaggregated race and ethnic data for specific data sets;
- Additional data elements deemed appropriate by the KSDE and DCF; and
- Numbers and percentages of students in foster care who:
 - Were promoted to the next grade level;
 - Were suspended (including duration);
 - Were expelled;
 - Are meeting academic standards;
 - Are enrolled in a preschool-aged at-risk program, preschool pilot program, or early childhood special education program; and
 - Participated in the MHIT Pilot Program or similar mental health program.

The bill defines “school” as any school within a school district or a nonpublic school accredited by the State and “student in foster care” as an individual in the custody of DCF while attending school at any point during a school year in which the report card is required to be completed.

At-risk Services

The bill defines students as at-risk and eligible for programs and services, as permitted under Sections 20-22 of the bill, if the student meets one or more of the following criteria:

- Is not working at academic grade level;
- Is not meeting requirements for promotion to the next grade level or is failing subjects or courses of study;
- Is not meeting requirements for graduation from high school or has the potential to drop out of school;
- Has insufficient mastery of skills or is not meeting state standards;
- Has been retained;
- Has a high rate of absenteeism;
- Has repeated suspensions or expulsions from school;
- Is homeless or migrant;
- Is identified as an English language learner;
- Has social-emotional needs causing the student to be unsuccessful in school; or
- Is identified as a student with dyslexia or having characteristics of dyslexia.

Remote Learning and Waivers

Remote Learning and Enrollment

The bill provides that no school district, beginning in school year 2022, shall provide or offer more than 40 hours of remote learning to any student enrolled in the school district. The bill allows boards of education to authorize individual students to temporarily attend school through remote learning in excess of the 40-hour limitation when the student cannot reasonably attend in person due to illness, injury, or other extraordinary circumstance. The bill also allows the Kansas State Board of Education (State Board) to authorize a school district to provide remote learning in excess of 40 hours in the following circumstances:

- Upon the school district's application certifying that due to disaster, conditions resulting from widespread or severe property damage caused by the disaster, or other condition restricting the operation of the school for an inordinate period of time and a determination by the State Board that the school district cannot

comply with such restriction without conducting up to 240 school term hours *via* remote learning; or

- Upon the school district’s application for a waiver that certifies widespread or severe property damage restricting the operation of the school and a determination by the State Board that the school district cannot comply with this restriction without conducting remote learning beyond 240 school term hours.

The bill amends law to define any student who attends school through remote learning in excess of the 240 school-term hour limitation as a “remote learning student.”

The bill requires each school district that offers remote learning, on or before June 30 of each school year, to determine the remote enrollment of the district based on the number of remotely enrolled students, and the clerk or superintendent of that school district to certify to the State Board a report showing remote enrollment by the grades of the schools in that school district.

The bill requires the State Board to determine the number of remotely enrolled students by school district, provide remote enrollment state aid of \$5,000 per remotely enrolled student, and notify each school district of the amount of remote enrollment state aid. The bill provides that remote enrollment state aid for students does not include students enrolled part-time in remote learning during the school day. The bill also requires the State Board to require each such school district return any payment over \$5,000 (an overpayment) in the current school year for such students, or to deduct the excess amounts over \$5,000 to be paid to the school district from future payments to be made to the school district.

The bill specifies that a remotely enrolled student is not included in the adjusted enrollment of the school district for the current school year.

The bill requires each school district that determines remote enrollment for the purposes of this section to submit any requested documentation or information to the State Board.

The bill provides, if a school district is granted a waiver due to disaster by the State Board, the remote learning hour limitations would not apply and the school district shall not be required to determine remote enrollment and the State Board shall not be required to adjust the school district’s funding.

Waiver

Continuing law allows the State Board to waive requirements for the duration of a school term in any school year upon the following criteria being met:

- Certification by a board of education that conditions restricting the operation of public schools for an inordinate period of time exist due to a disaster; and
- Determination by the State Board that the school district cannot reasonably adjust its schedule to comply with the law.

The bill removes “or other conditions restricting the operation of public schools” from the certification criterion and amends the definition of “disaster” as the occurrence of any widespread or severe damage, injury, or loss of life or property resulting from natural or man-made causes, removing references to declarations and orders and adding an epidemic to the definition.

Kansas Challenge to Secondary School Students Act (Kansas Challenge Act)

Kansas Challenge Act Reporting Requirements

The bill requires each postsecondary institution that accepts students for concurrent or dual enrollment to submit a report to the State Board of Regents. The report shall include, but not be limited to, the following:

- The number of students from each school district enrolled in the postsecondary institution, including the number of students in foster care;
- The number of students who successfully complete the courses in which they are enrolled;
- The tuition rate charged for concurrently or dually enrolled students compared to the tuition rate charged regularly enrolled students; and
- The portion of costs for concurrent and dual enrollment being paid by school districts.

The State Board of Regents is required to compile and present a summary report to the House and Senate standing committees on education on or before February 15 of each year.

Citation and Purpose

The bill states the purpose of the Kansas Challenge Act is to provide the means to school districts to encourage secondary students take advantage of all educational opportunities in Kansas.

Student Eligibility and Other Definitions

The bill amends the definition of “student” in the Kansas Challenge Act to require a student to have an individualized plan of study or an individualized education program. The new definition of student is a person:

- Enrolled in grades 10, 11, or 12 in a school district, or a gifted student enrolled in grades 9, 10, 11, or 12;
- With an individualized plan of study or an individualized education program;

- Who has demonstrated the ability to benefit from participation in the regular curricula of a postsecondary institution;
- Who has been authorized by their principal to apply for enrollment at a postsecondary institution; and
- Who is acceptable or has been accepted for enrollment at a postsecondary educational institution.

The bill amends the definition of “accredited independent institution” in the Kansas Challenge Act to include only not-for-profit postsecondary institutions and to specify the institution must be accredited by a nationally recognized accrediting agency.

Authority of School Districts and Notification Requirements

The bill allows school districts, at the discretion of the local boards of education, to pay for tuition, fees, books, materials, and equipment for any high school student who is concurrently or dually enrolled at a postsecondary educational institution (postsecondary institution). The bill authorizes a local board of education to pay all or a portion of those costs directly to the postsecondary institution by the school district. Students or their families are required to pay any portion of the costs not covered by the school district. School districts are also authorized to provide transportation for concurrently or dually enrolled students.

The bill requires postsecondary institutions to notify a student or a student’s parent or guardian if the course in which a student is enrolled is not eligible for a systemwide transfer of college credit to another in-state postsecondary educational institution, as determined by the State Board of Regents.

The bill requires school districts to grant high school credit to concurrently or dually enrolled students who satisfactorily complete course work at a postsecondary institution.

The bill prohibits school districts from paying for technical education courses that are part of the Excel in Career Technical Education program (also known as 2012 SB 155 courses) administered by the State Board of Regents.

In order to remain eligible for participation, the bill requires students to remain in good standing at the postsecondary institution in which they are enrolled or show satisfactory progress as determined by their school district.

Using Needs Assessment in the District Budget Process

The bill amends law requiring the board of education of each school district to conduct an assessment of the educational needs of each school in the district and utilize the results when preparing the school district’s budget. The bill requires the information obtained from the needs assessments to be used to ensure improvement in student academic performance. The bill also requires school district budgets to allocate sufficient moneys in a manner reasonably

calculated to ensure all students achieve the “Rose capacities,” which are codified in KSA 72-3218(c).

Tax Credit for Low Income Students Scholarship Program

The bill expands the Tax Credit for Low Income Students Scholarship Program by amending provisions relating to student eligibility requirements, school eligibility requirements, and reporting requirements.

Student Eligibility for the Tax Credit for Low Income Students Scholarship Program

The bill amends the Tax Credit for Low Income Students Scholarship Program to expand student eligibility in two ways:

- The bill amends the definition of “eligible student” to include students who are eligible for reduced-priced, added to free, meals under the National School Lunch Program. Continuing law requires the student also reside in Kansas and be enrolled in a public school or eligible to enroll in a public school.
- The bill amends the definition of “public school” to be any school operated by a USD in Kansas. Former law limited eligibility to those students enrolled or eligible to be enrolled in the lowest 100 performing elementary schools, as identified by the State Board.

The bill limits student eligibility for first-time applicants to students enrolled in kindergarten through grade eight.

The bill clarifies that the definition of “eligible student” includes any student who has previously received a scholarship under the Tax Credit for Low Income Students Scholarship Program and has not graduated from high school or is not 21 years old.

Publication of Accountability Reports

The bill requires the websites of accredited nonpublic schools participating in the Tax Credit for Low Income Students Scholarship Program to include a prominent link to KSDE’s website where the one-page accountability reports are published.

Accountability Reports

The bill requires KSDE to prepare one-page accountability reports for all accredited nonpublic schools in the state, in addition to public schools as in continuing law. The bill also requires KSDE to include accredited nonpublic schools in the longitudinal achievement report submitted to the Governor and Legislature each year.

Kansas School Finance

Update to Citation of Act

The bill redefines the Kansas School Equity and Enhancement Act (KSEEA) to include provisions relating to the calculation of remote enrollment state aid.

Definitions—KSEEA

The bill amends the definitions of “adjusted enrollment” and “enrollment” to exclude remote enrollment as determined under the bill.

The bill defines “remote enrollment” and “remote learning” as follows:

- “Remote enrollment” means the number of students regularly enrolled in a school district who attended school *via* remote learning as outlined in the bill; and
- “Remote learning” means a method of providing education in which a student regularly enrolled in a school district does not physically attend the attendance center where the student would otherwise attend in person on a full-time basis, and the instruction is prepared, provided, and supervised by teachers and staff of such school district to replace the instruction that would have occurred in the attendance center classroom. This definition does not include virtual school as defined in the Virtual School Aid Act.

These definitions do not apply to any school year prior to the 2021-2022 school year.

The bill amends the calculation of one student to include a student enrolled in the school district attending school part time *via* remote learning and part time in person to the nearest tenth of the student’s proportion of in-person attendance to full-time attendance. The bill does not count as a student any remotely enrolled student.

At-risk and High-density At-risk Weighting and Expenditures

The bill amends law regarding the at-risk and high-density weighting by removing the improvement requirements and providing that if a district does not spend the funds on best practices, then the district must repay such moneys to the district’s At-risk Education Fund. The State Board must notify the House and Senate standing committees on education on or before January 15 each year of any school districts repaying the funds in this manner and the amounts each district repaid the preceding school year.

The bill extends the high-density at-risk weighting through June 30, 2024.

The bill states the purpose of the at-risk and high-density at-risk student weightings is to provide eligible students with evidence-based, at-risk programs and services (programs and services) in addition to regular instructional services.

The bill also requires the portion of State Foundation Aid attributable to the at-risk and high-density at-risk student weightings to be transferred by each district to the district's At-risk Education Fund.

At-risk Educational Programs and Services

The bill requires the State Board to require school districts to implement programs and services using the at-risk best practices identified in law to assist eligible students in achieving educational outcome goals. The State Board must provide a list of approved programs and services to each district, and KSDE is required to publish the list on its website with a link prominently displayed on its homepage.

The bill amends eligible expenditures from a district's At-risk Education Fund to include only the following:

- At-risk and provisional at-risk programs (amended by the bill to include provisional at-risk programs);
- Personnel providing educational services in conjunction with such programs (continuing law);
- Support for instructional classroom personnel designed to provide training for evidence-based best practices for at-risk educational programs (added by the bill); or
- Services contracted for by the school district to provide at-risk and provisional at-risk educational programs (amended to include at-risk and provisional programs and removing a reference to best practices).

The bill defines an "at-risk educational program" as an at-risk program or service identified and approved by the State Board as an evidence-based best practice. A "provisional at-risk educational program" (provisional program) is defined as an evidence-based at-risk educational program or service identified or developed by a district as producing or likely to produce measurable success that has been submitted to the State Board for review.

The bill limits expenditures from a district's At-risk Education Fund to those programs or services included on the list approved by the State Board unless the program is a provisional program.

A provisional program can only be funded for a maximum of three years unless approved by the State Board and included on the list of approved programs.

The bill also states the delivery of programs and services by a district may include, but is not limited to, the following:

- Extended school year;
- Before-school programs and services;

- After-school programs and services;
- Summer school;
- Extra support within a class;
- Tutorial assistance; and
- Class within a class.

Expenditure of High Density At-risk Funding on Ineligible Activities

If a district does not spend money on such best practices for three consecutive years, the bill makes the district ineligible to continue receiving the high-density at-risk weighting funding. Former law stated if a district does not expend its high density at-risk weighting funds on best practices, it must show improvement within five years, or it will be disqualified from receiving the high-density at-risk student weighting in the succeeding school year.

Reporting Requirements

The bill clarifies the continuation of the reports each district must file with the State Board on the at-risk and provisional programs and services offered by the district. The bill updates the required information to be included in the reports to the following:

- Number of students identified as eligible to receive at-risk or provisional programs and services who were served or provided assistance;
- Type of at-risk and provisional at-risk programs and services provided, including the number of students assisted under approved programs;
- Data and research utilized by the district to determine what programs and services were needed;
- Longitudinal performance of students continuously receiving programs and services and applicable data regarding:
 - State assessment scores;
 - Kansas English language proficiency assessment results;
 - Four-year graduation rates;
 - Progress monitoring;
 - Norm-referenced test results;
 - Criterion-based test results;
 - Individualized education program goals;
 - Attendance; and
 - Average ACT composite scores; and
- Other information required by the State Board.

Audit Requirements

The bill requires the Legislative Post Audit Committee to direct the Legislative Division of Post Audit to conduct a performance audit of at-risk education expenditures. The audit is to evaluate the following:

- How districts are expending at-risk education funds;
- Whether expenditures comply with statutory provisions;
- Whether the State Board and KSDE are acting in accordance with statutory provisions regarding at-risk expenditures and programs; and
- Trends in academic outcomes of students receiving programs and services.

The audit will be conducted during calendar year 2023, and the final report will be provided to the Legislature on or before January 15, 2024.

ACT, Pre-ACT, and WorkKeys Assessments

Notification

The bill requires KSDE and each school district to annually publish on their websites the times, dates, and locations of all pre-ACT, ACT, and WorkKeys exams being offered in the state and information on how to register for them.

Participation

The bill clarifies that all participation in the pre-ACT, ACT, and WorkKeys examinations is optional and that nothing in the bill should be construed to require participation.

The bill also defines a “student” for this purpose as any person who is regularly enrolled in any public school or accredited private school.

Reporting Requirement

The bill requires the State Board to prepare and submit a report to the House and Senate standing committees on education on or before the first day of each regular legislative session regarding aggregate exam and assessment data for all students who took the exams pursuant to this section.

Kansas Challenge Act Tuition Waiver for Foster Care Students

The bill expands the Kansas Foster Child Educational Assistance program to provide a tuition waiver for foster care students who are concurrently or dually enrolled in a postsecondary

institution. In addition, school districts are authorized to pay for any costs that are not waived, including for fees, books, materials, and equipment.

The definition of “eligible foster child” is amended to add a student, as defined by provisions of this bill, who has been in the custody of the Secretary for Children and Families and in foster care placement at any time the child was enrolled in grades 9 through 12.