

SESSION OF 2014

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2506**

As Amended by Senate Committee of the Whole

Brief*

Senate Sub. for HB 2506 would appropriate an additional \$669,698 from the State General Fund (SGF) for higher education in FY 2014 and an additional \$25.2 million from the SGF for higher education in FY 2015; appropriate an additional \$105,665,000 for Supplemental General State Aid (local option budget equalization aid) and make a revenue transfer of \$25,200,786 to the Capital Outlay Fund from the SGF; make changes in the school finance formula; make changes in alternative teacher licensure; establish a Pre-Kindergarten–Grade 12 School Finance Commission; create the Fairness Property Tax Relief Act; make changes in the Reads to Succeed program; amend due process rights of teachers; prohibit expenditures related to Common Core standards; establish a Corporate Education Tax Credit Scholarship Program; repeal the expiration provision of the Midwestern Higher Education Compact Act; allow Emporia State University (ESU) and the University of Kansas (KU) to transfer or sell property; create the Go Pro Now program; encourage performance-based funding; and create the SUCCESS Act for community colleges.

Appropriations for Higher Education

The bill would appropriate an additional \$669,698 from the SGF for higher education in FY 2014 and an additional \$25.2 million from the SGF for higher education in FY 2015. The additional appropriation in FY 2014 would provide

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

\$500,000 to the Board of Regents for the Go Pro Now program and restore \$169,698 to the Municipal Operating Grant for 2014 and 2015. The additional appropriation for FY 2015 would provide \$15.0 million for research, \$1.5 million for the Go Pro Now program, \$1.9 million for the performance-based funding, and \$5.3 million for the SUCCESS Act. Additionally, the bill would restore \$2.1 million in funding to the community and technical colleges.

The bill would delete \$3.3 million from the tuition for technical education and delete the longevity funding for those institutions which will have all unclassified employees after July 1, 2014.

Appropriations for K-12

The bill would appropriate an additional \$105,665,000 for Supplemental General State Aid (local option budget equalization aid) and would make a revenue transfer of \$25,200,786 to the Capital Outlay Fund from the SGF. Changes in the school finance formula are described below resulting in a decrease in various weightings with associated decreases in education funding. In addition, to these decreases, the bill would make additional adjustments totaling \$96.5 million from the SGF.

Sale of Property

The bill would authorize the State Board of Regents, on behalf of ESU, to sell or exchange with the ESU Foundation certain real estate commonly known as Emporia State University Apartments. The bill would allow for an exchange of the apartments with land the ESU Foundation is acquiring closer to the campus than the apartments' current location.

The bill would authorize KU and the KU Endowment Association to exchange two parcels of property. The parcels have been appraised and the boundaries have been defined such that the two parcels are equal in value.

Midwestern Higher Education Compact

The bill would repeal the expiration provision of the Midwestern Higher Education Compact Act.

Go Pro Now Program

The bill would create the Johnson County Community College (JCCC) Go Pro Now program, a pilot program that would provide high school students with: (1) a two-year, opportunity to receive a high school diploma from the school district in which the student is enrolled and an associate degree from JCCC in a relevant technology, bioscience, or other field that addresses employers' needs; or (2) an accelerated, four-year opportunity to receive a high school diploma from the school district in which the student is enrolled, associate degree from JCCC, and bachelor's degree from a state educational institution. This provision would be effective upon publication in the *Kansas Register*.

Performance-Based Funding

The bill would provide payments by the Board of Regents to postsecondary educational institutions that have provided any of the following to an individual enrolled in the institution:

- Receipt of a GED credential while enrolled in an eligible career technical education (CTE) program;
- Receipt of a CTE credential; or
- Enrollment in an eligible CTE program.

SUCCESS Act Program

The bill would establish the SUCCESS Act program for community colleges. The program includes the formation of a SUCCESS selection committee, which will select at least one but not more than two community colleges as participants in the program. The committee would determine the amount of

money to be distributed to each participant from the SUCCESS program account.

The board of trustees for any community college selected to participate in the SUCCESS program would work in conjunction with the State Board of Regents, one or more state educational institutions, one or more technical colleges, and one or more school districts to develop a detailed plan to provide educational programs that integrate CTE from the secondary education level through attainment of a postsecondary industry certification or advanced degree, including a bachelor's degree.

This provision would be effective upon publication in the *Kansas Register*.

Changes to the K-12 Finance Formula

The bill would make the following changes in the school finance formula:

- Eliminate the nonproficient weighting resulting in a total reduction of \$4,885,485 (a weighting for pupils who are not proficient on state assessments and who do not qualify for free lunch);
- Eliminate school facilities weighting for a total reduction of \$10,473,984 (those districts qualifying for the first year of the weighting in 2013-14 would receive the second year of the weighting in 2014-15; thereafter, the weighting would be eliminated);
- Eliminate part-time students in grades 1-12 from the at-risk weighting as well as students over the age of 19. (Students with individualized education programs are exempt from this provision.) The total reduction would be \$3,351,451;
- Revise the transportation weighting, resulting in a reduction of \$16,468,518;

- Reduce virtual school aid to 90 percent (from 105 percent) for full-time virtual students and 70 percent for part-time virtual students, with a resulting reduction of \$7,051,380;
- Revise the definition of a virtual student to exclude those students in virtual programs in nonpublic schools; the advanced placement state aid would be based upon the full-time equivalent enrollment (this exclusion does not apply to homeschools registered with the State Board of Education). This provision would not take effect until school year 2015-2016;
- Reduce the high density at-risk weighting by beginning the scale at 45 percent of students at risk (a change from 35 percent) to 55 percent – the percent of at-risk students in a district eligible for the maximum weighting, resulting in a reduction of \$7,235,205;
- Extend the sunset on the alternative local option budget (LOB) calculation, using \$4,433 as the base state aid per pupil, to June 30, 2017;
- Authorize any district to adopt a new resolution to levy property taxes for capital outlay reflecting expanded uses of the funds (legislation passed in 2013 allowed districts to use capital outlay funds for academic purposes, computer software, and performance uniforms, if capital outlay state aid is fully funded); and
- The bill would require school districts desiring to adopt a local option budget in excess of 31 percent of the state financial aid of the district to gain approval for such an increase *via* a mail ballot election held by August 1 of the initial school year for which the funding would be used. However, this requirement would not apply to USD 207, Ft.

Leavenworth. That district would be authorized to increase its local option budget (LOB).

These reductions would be used to fully fund the Supplemental General State Aid and the Capital Outlay State Aid. The school finance provisions related to the local option budget would be effective upon publication in the *Kansas Register*.

Alternative Teacher Licensure

The bill would exempt a teacher licensure applicant from completing a teacher preparation program prior to licensure if the applicant:

- Holds a valid teaching licensure from another jurisdiction and has obtained the required scores on the Praxis series tests;
- Has obtained an industry-recognized certificate in a technical profession with at least five years of work experience in that profession and has secured a commitment from a local board of education to be hired as a CTE teacher for that profession; or
- Has obtained at least a bachelor's degree in science, technology, engineering, mathematics, finance or accounting; has at least five years of work experience in that subject area; and has secured a commitment from the local school board to be hired as a teacher in that content area.

This provision would be effective upon publication in the *Kansas Register*.

Due Process Rights of Teachers

The bill would amend the law concerning due process procedures for the termination of a teacher contract. In the act governing due process procedures, the bill would strike

from the definition of “teacher” any professional employee who is required to hold a certificate to teach in any school district. Instead, “teacher” would be defined as any teacher or instructor in any technical college, the institute of technology, or community college. “Teacher” would not include any persons employed in an administrative capacity by any technical college, the institute of technology, or community college. However, for the purposes of the section in that act governing the renewal of a teacher’s contract absent written notice to terminate the contract, “teacher” would include any professional employee who is required to hold a certificate to teach in any school district. This narrowing of the definition of “teacher” for the act as a whole would make the due process procedures inapplicable to such professional employees. The bill would make technical amendments to conform with that change and would strike provisions exempting certain teachers from due process procedures and concerning plans of assistance for teachers who have completed at least three years of employment. The bill also would amend provisions of the law concerning the mentor teacher program to revise the definitions of “probationary teacher” to mean a certificated teacher who has completed less than three consecutive school years of employment in the school district.

Pre-Kindergarten – Grade 12 School Finance Study Commission

The bill would establish a Pre-K–12 School Finance Study Commission (Commission) to study and analyze the current school finance system and school district spending, and develop recommendations regarding the Legislature’s constitutional funding obligations. The Commission would consist of 21 voting members as follows:

- Ten members of the Legislature, including:
 - Two members appointed by the President of the Senate, with one being a member of the Senate Ways and Means Committee;

- Two members appointed by the Speaker of the House, with one being a member of the House Appropriations Committee;
 - Two members appointed by the Minority Leader of the House, with one a member of the Appropriations Committee;
 - Two members appointed by the Minority Leader of the Senate, with one a member of the Ways and Means Committee; and
 - One member each appointed by the chairpersons of the House and Senate Education Committees.
- Eight at-large members appointed, as follows:
 - Two members appointed by the President of the Senate;
 - One appointed by the Senate Minority Leader;
 - Two appointed by the Speaker of the House;
 - One appointed by the House Minority Leader;
 - One appointed by the chairperson of the Senate Education Committee; and
 - One appointed by the chairperson of the House Education Committee.
 - Three at-large members appointed by the Governor.

The Commission would be required to make a report to the Legislature by January 12, 2015. This provision would become effective upon publication in the *Kansas Register*.

Education Fairness Property Tax Relief Act

The bill would provide *ad valorem* tax relief to parents of a child between the ages of 6 and 18, who was not enrolled in a Kansas public school during a preceding calendar year and

was educated in a private school registered with the State Board of Education. Parents would be eligible for property tax relief not exceeding \$1,000 per calendar year per child or \$2,500 per family, nor exceeding the property tax accrued. Upon submission of allowable education expense documentation to the Department of Revenue, the property tax would be reduced. (This would apply only to property tax levies imposed by a local school district.) Allowable education expenses would include tuition, fees, books, equipment, and supplies relating to the child's education outside the public education system. This provision would be effective upon publication in the *Kansas Register*.

Lexia Reading Program

The bill would remove the requirement that Lexia be the vendor for the Kansas Reads to Succeed program for FY 2015. This provision would be effective upon publication in the *Kansas Register*.

Corporate Education Tax Credit Scholarship Program Act

The bill would create the Corporate Education Tax Credit Scholarship Program Act (Act), which would provide eligible students with scholarships to pay all or a portion of tuition to attend a qualified school in Kansas.

Scholarship Eligibility

An "eligible student" would be a child who:

- Is a member of a household having an annual income not exceeding 185 percent of the federal poverty level; or
- Has an individualized education program.

In addition, a student who received a scholarship under the Act, has not graduated from high school, and is under 21, would be eligible.

Eligible students would be required to:

- Reside in Kansas while receiving a scholarship; and
- Be enrolled in a public school in the year prior to receiving the scholarship or be eligible to be enrolled in a public school, if under the age of six.

Tax Credits

The scholarship would be financed *via* a tax credit against corporate income and premium (insurance companies) or privilege (financial institutions) tax liability beginning with tax year 2014 in an amount equal to 70 percent of the amount contributed for scholarships. The credit would be claimed and deducted from the taxpayer's tax liability during the tax year immediately following the tax year in which the contribution was made. However, if the credit would exceed the donor's tax liability for a particular year, the excess amount could be carried over in future years until the total credit was used.

The total amounts of credits allowed in each tax year would not exceed \$10.0 million.

Scholarship Granting Organizations

The bill would create a scholarship granting organization (SGO) to administer the Act. The SGO would be required to provide verification to the Secretary of Revenue of the SGO's federal income tax exemption *via* section 501(c)(3) of the federal Internal Revenue Code. The SGO would be required to disburse not less than 90 percent of the contributions received within a 36-month time period in educational scholarships not to exceed \$8,000 per eligible student.

Allocation of the tax credits would be determined by the SGO in consultation with the Secretary of Revenue.

Applications for a scholarship would be made to the SGO, which would be required to verify students meet the eligibility criteria of the bill and report that information – which eligibility criteria the student met – to the State Board of Education (State Board) by June 1 of each year. Other information required to be reported to the State Board includes name and address of the SGO and of each scholarship recipient, and the total number and amount of contributions and scholarships received and awarded during a 12-month period.

Each SGO would be required to have its accounts examined and audited by a certified public accountant annually. An SGO having contributions in excess of \$50,000 during a school year would be required to provide a surety bond to the State Board or financial information demonstrating an ability to pay an amount equal to contributions received.

An SGO would be responsible for ensuring schools receiving scholarships comply with the Corporate Education Tax Credit Program requirements.

Finally, an SGO would be prohibited from providing an eligible student with a scholarship funded by a student's relative or accepting a contribution directed toward a specific student.

Qualified Schools

The bill would provide eligible students with an opportunity to attend qualified schools chosen by their parents. "Qualified school" would be defined as any nonpublic school providing education to elementary and secondary students. The school would be required to notify the State Board of its intention to participate in the scholarship program.

This provision would be effective upon publication in the *Kansas Register*.

Common Core Standards

The bill would prohibit any state agency or school district from expending money appropriated from the State General Fund or from any special revenue fund for fiscal years 2015, 2016, or 2017, to implement the Common Core standards or any portion of the standards, including any assessments affiliated with those standards, unless the Legislature consents.

This provision would be effective upon publication in the *Kansas Register*.

Background

HB 2506, as introduced, would repeal a statute relating to the Midwest Higher Education Compact Act. There was no hearing on the original bill. Following its passage in the House, the bill was referred to the Committee on Ways and Means. The Senate Committee recommended a substitute bill that includes the original bill and incorporates provisions from several other bills. The bills are described below.

Background – SB 452 (School Finance Formula)

SB 452, introduced in the Committee on Ways and Means, contained several adjustments to the school finance formula. The Senate Ways and Means Committee inserted the higher education and K-12 education appropriation provisions into the bill, as well as several education-related policy provisions described above.

The bill had a hearing with several opponents of the revisions to the virtual student weighting. Those opponents

included representatives of Basehor/Linwood, Elkhart, Maize, and Springhill School Districts; Clayton Christensen Institute; Insight School of Kansas; Kansas Connection Academy; Kansas Virtual Schools; and United School Administrators. Those presenting neutral testimony were representatives of Kansans for Liberty, Kansas Association of School Boards, Kansas Coalition for School Readiness, Kansas Policy Institute, and Wichita School District and a private citizen. There was no fiscal note on the bill.

Background – HB 2396 (ESU, KU, Surplus Real Estate)

HB 2396 was introduced by the House Appropriations Committee. A representative of the Department of Administration testified in support of the bill at the House General Government Budget Committee hearing, noting that the Legislative Division of Post Audit made several recommendations about the State Surplus Property Program, including the recommendation to give the Secretary of Administration sole authority in designating surplus state property.

The House Committee of the Whole amended the bill to insert the contents of HB 2021 and HB 2071. HB 2021 was introduced by the Legislative Educational Planning Committee as part of the Board of Regents legislative package. Proponent testimony was provided by representatives of ESU. Representative Mast also testified as a proponent of the bill. There were no opponents.

HB 2071 was introduced by the Legislative Educational Planning Committee at the request of the Board of Regents. The Chief Business and Financial Planning Officer of KU testified as a proponent of the bill, stating KU has a piece of property that was purchased with parking funds and currently contains a parking garage that the University wants to exchange for a piece of property owned by the KU Endowment Association that currently is used as a parking lot.

The fiscal note indicated the costs of publishing notices of surplus property would be negligible.

Background – SB 427 (Go Pro Now Program)

SB 427, concerning the Go Pro Now Program, at its hearing before the Senate Committee on Ways and Means, had proponents representing JCCC and Shawnee Mission High School. Written proponent testimony was provided by the Board of Regents and a representative of the Kansas Association of Community College Trustees. There were no opponents. There was no fiscal note on the bill.

Background – SB 429 (Performance-Based Funding)

At the Senate Committee on Ways and Means hearing on SB 429, related to performance-based funding, proponents included representatives of Goodwill Industries, the Kansas Association of Community Colleges, Kansas Board of Regents, and Kansas Association of Technical Colleges. There were no opponents.

The fiscal note on the bill indicated that when certifications are received by the Board of Regents, payment would be calculated and distributed subject to appropriation.

Background – SB 434 (SUCCESS Act)

At the Senate Committee on Ways and Means hearing on SB 434, concerning the SUCCESS Act, had proponents from Cloud County Community College, Fort Scott Community College, and the Kansas Association of Community College Trustees. There were no opponents.

The fiscal note on the bill indicated it would cost \$5.3 million from the SGF in both FY 2015 and FY 2016. This includes funding for Board of Regents administrative support and community college operations. The fiscal note also

indicated there would be a fiscal impact on local government because the selected community college would be authorized to levy a property tax.

Additional Amendments

The Senate Committee of the Whole made the following amendments to the bill.

- Delayed the implementation of a revision in the virtual school weighting until the 2015-2016 school year;
- Required school districts to hold a mail ballot election when desiring to increase LOB above 31 percent;
- Authorized the Ft. Leavenworth school district to increase its LOB above 31 percent via an act of the local school board, rather than requiring an election;
- Added two legislators to the K-12 School Finance Study Commission;
- Established a Corporate Education Tax Credit Scholarship Program;
- Prohibited the expenditure of funds by state agencies or school districts related to Common Core standards; and
- Amended law related to due process rights of teachers.