

Journal of the Senate

FORTY-FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, March 20, 2014, 2:30 p.m.

The Senate was called to order by Vice President Jeff King.
The roll was called with thirty-nine senators present.
Senator Love was excused.
Invocation by Father Don Davidson:

Grit is described as a singular passion, uninterrupted at times by rational thought. Grit is understood as being synonymous with resilience, possibly stubbornness. Dear Lord, help us to have gritty faith, filled with understanding, compassion and an eye toward reality and yet enabled with a sincerely held love of you. May we always have grit when it comes to our relationship with you, O Lord, and each other. In your holy name. Amen

The Pledge of Allegiance was led by Vice President Jeff King

INTRODUCTION OF GUESTS

Vice President King recognized retired Senate Chaplain, Fred Holloman and his wife Pat. The senators honored him with a standing ovation.

Senator Bowers recognized retired Representative Bob Fuller and his wife, Janet. Also introduced were Joann Zlatnik, House Page Scheduler, and Linda Wulfskuhle Senate Page Scheduler. The senators honored them with a standing ovation.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 446, AN ACT concerning alcoholic beverages; relating to the consumption of alcoholic beverages in public; amending K.S.A. 2013 Supp. 41-719 and 41-2653 and repealing the existing sections, by Committee on Ways and Means.

SB 447, AN ACT concerning weapons; relating to the regulation and possession of firearms and knives; amending K.S.A. 2013 Supp. 12-16,124, 12-16,134, 12-4516, 12-4516a, 21-6301, 21-6304, 22-2512, 32-1047, 75-7c04 and 75-7c20 and repealing the existing sections; also repealing K.S.A. 2013 Supp. 21-6307 and 75-7c12, by Committee on Federal and State Affairs.

SB 448, AN ACT concerning abortion; relating to medical emergencies; relating to the woman's-right-to-know act; amending K.S.A. 65-6704 and K.S.A. 2013 Supp. 65-4a01, 65-4a07, 65-6701, 65-6705, 65-6709, 65-6723 and 76-3308 and repealing the existing sections, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: **SB 445**.

Education: **HB 2475**.

Federal and State Affairs: **HCR 5031**.

Ways and Means: **SB 444**.

MESSAGES FROM THE GOVERNOR

March 19, 2014

Message to the Senate of the State of Kansas:

Enclosed herewith is Executive Directive No. 14-451 for your information.

SAM BROWNBACK
Governor

The Vice President announced Executive Directive No. 14-451, Authorizing Expenditure of Federal Funds and Authorizing Fund Transfers, is on file in the office of the Secretary of the Senate and is available for review at any time.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2642**, **Sub HB 2681**.

Announcing passage of **SB 147**, as amended by **H Sub SB 147**, **SB 231**, as amended by **H Sub SB 231**, **SB 258**, as amended, **SB 329**, as amended.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2642; **Sub HB 2681** were thereupon introduced and read by title.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** recommends **HB 2058** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2058," as follows:

"Senate Substitute for HOUSE BILL NO. 2058
By Committee on Assessment and Taxation

"AN ACT concerning sales taxation; relating to exemptions; amending K.S.A. 2013 Supp. 79-3606 and repealing the existing section.";

And the substitute bill be passed.

Also, **HB 2417**, as amended by House Committee, be amended on page 1, following line 28, by inserting:

"Sec. 2. K.S.A. 2013 Supp. 79-32,267 is hereby amended to read as follows: 79-32,267. (a) For taxable years commencing after December 31, 2011, and before January 1, 2017, there shall be allowed as a credit against the tax liability of a resident individual taxpayer an amount equal to the resident individual's income tax liability under the provisions of the Kansas income tax act, when the resident individual:

(1) Establishes domicile in a rural opportunity zone on or after July 1, 2011, and prior to January 1, 2016, and was domiciled outside this state for five or more years immediately prior to establishing their domicile in a rural opportunity zone in this state;

(2) had Kansas source income less than \$10,000 in any one year for five or more years immediately prior to establishing their domicile in a rural opportunity zone in this state; ~~and~~

(3) was domiciled in a rural opportunity zone during the entire taxable year for which such credit is claimed; and

(4) for taxable years commencing after December 31, 2013, and before January 1, 2017, is employed in a for-profit business or cooperative during the year in which such credit is claimed; or is employed in a for-profit or nonprofit hospital, clinic, nursing home, long-term residential care facility, hospice or medical professional office and directly engaged in providing professional management or professional medical, dental, psychiatric, optometric or other professional healthcare services to the public during the year for which such credit is claimed; and is not employed by a public entity during the year for which such credit is claimed. For purposes of this section, "public entity" means the state of Kansas, political subdivisions, cities, counties, state universities or colleges, school districts, all special districts, joint agreement entities, public authorities, public trusts and nonprofit corporations or other organizations which are operated with public money, but not including hospitals, clinics, nursing homes, long-term residential care facilities, hospices or professional offices providing medical, dental, psychiatric, optometric or other healthcare services to the public. This paragraph shall not apply to resident individuals who established domicile in a rural opportunity zone before July 1, 2014.

(b) A resident individual may claim the credit authorized by this section for not more than five consecutive years following establishment of their domicile in a rural opportunity zone.

(c) The maximum amount of any refund under this section shall be equal to the amount withheld from the resident individual's wages or payments other than wages pursuant to K.S.A. 79-3294 et seq., and amendments thereto, or paid by the resident individual as estimated taxes pursuant to K.S.A. 79-32,101 et seq., and amendments thereto.

(d) As used in this section, "cooperative" shall mean any of the following:

(1) Any association that is governed by the provisions and applications of article 16 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, the cooperative marketing act;

(2) any association, trust, agreement or arrangement that is governed by the Capper-Volstead act (7 U.S.C. § 291 et seq.);

(3) any corporation organized under the electric cooperative act, K.S.A. 17-4601 et seq., and amendments thereto, or which becomes subject to the electric cooperative act in any manner therein provided, or any limited liability company or corporation, or wholly owned subsidiary thereof, providing electric service at wholesale in the state of Kansas that is owned by four or more electric cooperatives that provide retail service in the state of Kansas, or any member-owned corporation formed prior to 2004;

(4) any association that is governed by the provisions and applications of article 22 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, the credit union act;

(5) any association that is governed by the provisions and applications of article 15 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, the cooperative societies act; or

(6) any rural telephone company, as defined in K.S.A. 66-1,187, and amendments thereto.

(e) No credit shall be allowed under this section if:

(1) The resident individual's income tax return on which the credit is claimed is not timely filed, including any extension; or

(2) the resident individual is delinquent in filing any return with, or paying any tax due to, the state of Kansas or any political subdivision thereof.

~~(e)~~ (f) This section shall be part of and supplemental to the Kansas income tax act.;"

Also on page 1, in line 29, by striking "is" and inserting "and 79-32,267 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "zones;" by inserting "private business employment;"; also in line 2, after "74-50,222" by inserting "and 79-32,267"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

HB 2557, as amended by House Committee of the Whole, be amended on page 3, by striking all in lines 33 through 43;

On page 4, by striking all in lines 1 through 4, and inserting:

"Sec. 2. K.S.A. 2013 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable

income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments thereto.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto.

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2013 Supp. 79-32,204, and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203, and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2013 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(xi) The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2013 Supp. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004, amounts received as withdrawals not in accordance with the provisions of K.S.A. 2013 Supp. 74-50,204, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xiii) of subsection (c), or if such amounts are not already included in the federal adjusted gross income.

(xiii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2013 Supp. 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

(xiv) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2013 Supp. 79-32,221, and amendments thereto.

(xv) The amount of any expenditures claimed for deduction in determining federal

adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2013 Supp. 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-32,251 through 79-32,254, and amendments thereto.

(xvi) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2013 Supp. 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

(xvii) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2013 Supp. 79-32,256, and amendments thereto.

(xviii) For taxable years commencing after December 31, 2006, the amount of any ad valorem or property taxes and assessments paid to a state other than Kansas or local government located in a state other than Kansas by a taxpayer who resides in a state other than Kansas, when the law of such state does not allow a resident of Kansas who earns income in such other state to claim a deduction for ad valorem or property taxes or assessments paid to a political subdivision of the state of Kansas in determining taxable income for income tax purposes in such other state, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

~~(xix) For all taxable years beginning after December 31, 2012, the amount of any: (1) Loss from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) loss from rental real estate, royalties, partnerships, S-corporations, except those with wholly owned subsidiaries subject to the Kansas privilege tax, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) farm loss as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent deducted or subtracted in determining the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011, and as revised thereafter by the internal revenue service.~~

~~(xx)~~ For all taxable years beginning after December 31, 2012, the amount of any deduction for self-employment taxes under section 164(f) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

~~(xxi)~~~~(xx)~~ For all taxable years beginning after December 31, 2012, the amount of any deduction for pension, profit sharing, and annuity plans of self-employed individuals under section 62(a)(6) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

~~(xxii)~~~~(xxi)~~ For all taxable years beginning after December 31, 2012, the amount of any deduction for health insurance under section 162(l) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

~~(xxiii)~~(xxii) For all taxable years beginning after December 31, 2012, the amount of any deduction for domestic production activities under section 199 of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

~~(xxiv)~~(xxiii) For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid for medical care of the taxpayer or the taxpayer's spouse or dependents when such expenses were paid or incurred for an abortion, or for a health benefit plan, as defined in K.S.A. 2013 Supp. 65-6731, and amendments thereto, for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2013 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

~~(xxv)~~(xxiv) For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan, as defined in K.S.A. 2013 Supp. 65-6731, and amendments thereto, when such expenses were paid or incurred for abortion coverage or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2013 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as a deduction for federal income tax purposes.

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to

the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and 228c (a)(1) et seq.

(ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. § 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas Venture Capital, Inc.

(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249, and amendments thereto.

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under K.S.A. 2013 Supp. 74-50,201 et seq., and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation. For all taxable years beginning after December 31, 2012, the amount of modification under this subsection shall exclude the portion of income or loss reported on schedule E and included on line 17 of the taxpayer's form 1040 federal individual income tax return.

(xv) For all taxable years beginning after December 31, 2006, amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program or a qualified tuition program established and maintained by another state or agency or instrumentality thereof pursuant to section 529 of the internal revenue code of 1986, as amended, for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2013 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

(xvi) For all taxable years beginning after December 31, 2004, amounts received by

taxpayers who are or were members of the armed forces of the United States, including service in the Kansas army and air national guard, as a recruitment, sign up or retention bonus received by such taxpayer as an incentive to join, enlist or remain in the armed services of the United States, including service in the Kansas army and air national guard, and amounts received for repayment of educational or student loans incurred by or obligated to such taxpayer and received by such taxpayer as a result of such taxpayer's service in the armed forces of the United States, including service in the Kansas army and air national guard.

(xvii) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are eligible members of the Kansas army and air national guard as a reimbursement pursuant to K.S.A. 48-281, and amendments thereto, and amounts received for death benefits pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and amendments thereto, to the extent that such death benefits are included in federal adjusted gross income of the taxpayer.

(xviii) For the taxable year beginning after December 31, 2006, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$50,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly; and for all taxable years beginning after December 31, 2007, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$75,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly.

(xix) Amounts received by retired employees of Washburn university as retirement and pension benefits under the university's retirement plan.

(xx) For all taxable years beginning after December 31, 2012, the amount of any: (1) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent included in the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011 and as revised thereafter by the internal revenue service.

(d) There shall be added to or subtracted from federal adjusted gross income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and amendments thereto.

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131, and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner.";

Also on page 4, in line 5, by striking "is" and inserting "and 79-32,117 are";

On page 1, in the title, in line 2, by striking all after "returns"; line 3, by striking all before the semicolon and inserting "and certain income modifications"; also in line 3, after "79-3228" by inserting "and 79-32,117"; in line 4 by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Commerce** recommends **HB 2616** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2616," as follows:

"Senate Substitute for HOUSE BILL NO. 2616

By Committee on Commerce

"AN ACT concerning workplace safety; authorizing and directing the secretary of labor to make a study of whether the state should enter into an agreement with the federal government regarding state enforcement of federal occupational safety and health act standards.";

And the substitute bill be passed.

Also, **HB 2086** be amended on page 1, in line 8, by striking "2012" and inserting "2013"; in line 12, by striking "2012" and inserting "2013"; in line 18, by striking "2012" and inserting "2013"; in line 22, by striking "2012" and inserting "2013";

On page 2, in line 17, by striking "2012" and inserting "2013";

On page 3, in line 21, after "district" by inserting "and such infrastructure is related to a project within the district or substantially for the benefit of the district"; in line 22, by striking "2012" and inserting "2013";

On page 9, in line 41, by striking "2012" and inserting "2013";

On page 10, in line 28, by striking "2012" and inserting "2013"; in line 31, by striking "2012" and inserting "2013";

On page 11, in line 40, by striking "2012" and inserting "2013";

On page 12, in line 8, by striking "2012" and inserting "2013";

On page 14, in line 24, by striking "2012" and inserting "2013"; in line 29, by striking "2012" and inserting "2013";

On page 1, in the title, in line 3, by striking "2012" and inserting "2013"; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **Sub HB 2223** be amended on page 1, by striking all in lines 6 through 36;

By striking all on pages 2 through 4;

On page 5, by striking all in lines 1 through 16 and inserting:

"Section 1. K.S.A. 2013 Supp. 41-104 is hereby amended to read as follows: 41-104. No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish or possess any alcoholic liquor for beverage purposes, except as specifically provided in this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, except that nothing contained in this act shall prevent:

(a) The possession and transportation of alcoholic liquor for the personal use of the possessor, the possessor's family and guests except that the provisions of K.S.A. 41-407, and amendments thereto, shall be applicable to all persons;

(b) the making of wine, cider or beer by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker and, the maker's family, guests and judges at a contest or competition of such beverages, provided, the maker receives no compensation for producing such beverages or for allowing the consumption thereof;

(c) any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of the medical or dental profession;

(d) any hospital or other institution caring for sick and diseased persons, from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or institution;

(e) any drugstore employing a licensed pharmacist from possessing and using alcoholic liquor in the compounding of prescriptions of duly licensed physicians;

(f) the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church;

(g) the sale of wine to a consumer in this state by a person which holds a valid license authorizing the manufacture of wine in this or another state and the shipment of such wine directly to such consumer, subject to the following: (1) The consumer must be at least 21 years of age; (2) the consumer must purchase the wine while physically present on the premises of the wine manufacturer; (3) the wine must be for the consumer's personal consumption and not for resale; and (4) the consumer shall comply with the provisions of K.S.A. 41-407, and amendments thereto, by payment of all applicable taxes within such time after purchase of the wine as prescribed by rules and regulations adopted by the secretary;

(h) the serving of complimentary alcoholic liquor or cereal malt beverages at fund raising activities of charitable organizations as defined by K.S.A. 17-1760, and amendments thereto, and as qualified pursuant to 26 U.S.C.A. § 501(c) and by committees formed pursuant to K.S.A. 25-4142 et seq., and amendments thereto. The serving of such alcoholic liquor at such fund raising activities shall not constitute a sale pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto. Any such fund raising activity shall not be required to obtain a license or a temporary permit pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto; or

(i) the serving of complimentary alcoholic liquor or cereal malt beverage on the unlicensed premises of a business by the business owner or owner's agent at an event sponsored by a nonprofit organization promoting the arts and which has been approved by ordinance or resolution of the governing body of the city, county or township wherein the event will take place and whereby the director of the alcoholic beverage control has been notified thereof no less than 10 days in advance.

(j) For purposes of subsection (b), the term "guest" means a natural person who is known to the host and receives a personal invitation to an event conducted by the host. The term "guest" shall not mean a natural person who receives an invitation to an event conducted by the host when such invitation has been made available to the general public.

Sec. 2. K.S.A. 2013 Supp. 41-308b is hereby amended to read as follows: 41-308b.

(a) A microbrewery license shall allow:

(1) The manufacture of not less than 100 nor more than ~~15,000~~ 30,000 barrels of domestic beer during the ~~license~~ calendar year and the storage thereof;

(2) the sale to beer distributors of beer, manufactured by the licensee;

(3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of beer manufactured by the

licensee;

(4) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of beer manufactured by the licensee, if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(5) if the licensee is also licensed as a club or drinking establishment, the sale of domestic beer and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act; and

(6) if the licensee is also licensed as a caterer, the sale of domestic beer and other alcoholic liquor for consumption on unlicensed premises as authorized by the club and drinking establishment act.

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a microbrewery licensee, the director may issue not to exceed one microbrewery packaging and warehousing facility license to the microbrewery licensee. A microbrewery packaging and warehousing facility license shall allow:

(1) The transfer, from the licensed premises of the microbrewery to the licensed premises of the microbrewery packaging and warehousing facility, of beer manufactured by the licensee, for the purpose of packaging or storage, or both; and

(2) the transfer, from the licensed premises of the microbrewery packaging and warehousing facility to the licensed premises of the microbrewery, of beer manufactured by the licensee; or

(3) the removal from the licensed premises of the microbrewery packaging and warehousing facility of beer manufactured by the licensee for the purpose of delivery to a licensed beer wholesaler.

(c) A microbrewery may sell domestic beer in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a microbrewery may serve samples of domestic beer and serve and sell domestic beer and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor.

(d) The director may issue to the Kansas state fair or any bona fide group of brewers a permit to import into this state small quantities of beer. Such beer shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such beer shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of beer to be imported, the quantity to be imported, the tasting programs for which the beer is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of beer pursuant to this subsection and the conduct of tasting programs for which such beer is imported.

(e) A microbrewery license or microbrewery packaging and warehousing facility license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(f) No microbrewery shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work

on the licensed premises at any time when not under the on-premises supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(g) Whenever a microbrewery licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and all fees paid for the license in accordance with the Kansas administrative procedure act.

Sec. 3. K.S.A. 2013 Supp. 41-308d is hereby amended to read as follows: 41-308d.

(a) Notwithstanding any other provisions of the Kansas liquor control act to the contrary, any person or entity who is licensed to sell alcoholic liquor in the original package at retail may conduct wine, beer and distilled spirit tastings on the licensed premises, or adjacent premises, monitored and regulated by the division of alcoholic beverage control, as follows:

(1) Wine, beer and spirits for the tastings shall come from the inventory of the licensee. Except as provided by paragraph (2), a person other than the licensee or the licensee's agent or employee may not dispense or participate in the dispensing of alcoholic beverages under this section.

(2) The holder of a supplier's permit or Kansas farm winery license or such permit holder's or licensee's agent or employee may participate in and conduct product tastings of alcoholic beverages at a retail licensee's premises, or adjacent premises, monitored and regulated by the division of alcoholic beverage control, and may open, touch, or pour alcoholic beverages, make a presentation, or answer questions at the tasting. Any alcoholic beverage tasted under this subsection must be purchased from the retailer on whose premises the tasting is held. The retailer may not require the purchase of more alcoholic beverages than are necessary for the tasting. This section does not authorize the supplier, farm winery licensee or ~~its~~ the supplier's or licensee's agent to withdraw or purchase an alcoholic beverage from the holder of a distributor's permit or provide an alcoholic beverage for tasting on a retailer's premises that is not purchased from the retailer.

(3) No charge of any sort may be made for a sample serving.

(4) A person may be served more than one sample. Samples may not be served to a minor. No samples may be removed from the licensed premises.

(5) The act of providing samples to consumers shall be exempt from the requirement of holding a Kansas food service dealer license from the department of agriculture under the provisions of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(b) Nothing in this section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.

(c) The provisions of this section shall take effect and be in force from and after July 1, 2012.

(d) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

(e) This section shall be a part of and supplemental to the Kansas liquor control act.

Sec. 4. K.S.A. 2013 Supp. 41-311 is hereby amended to read as follows: 41-311. (a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) ~~Who has not been is not~~ a citizen of the United States ~~for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;~~

(2) who has been convicted of a felony under the laws of this state, any other state or the United States;

(3) who has had a license revoked for cause under the provisions of the liquor control act, the beer and cereal malt beverage keg registration act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

(4) who has been convicted of being the keeper or is keeping any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;

(5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(6) who is not at least 21 years of age;

(7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;

(8) who intends to carry on the business authorized by the license as agent of another;

(9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);

(10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto, shall be eligible to receive a retailer's license under the Kansas liquor control act;

(11) who does not own the premises for which a license is sought, or does not, at the time of application, have a written lease thereon;

(12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subsection (a)(12) shall not apply in determining eligibility for a renewal license;

(13) whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act; or

(14) who does not provide any data or information required by K.S.A. 2013 Supp.

41-311b, and amendments thereto.

(b) No retailer's license shall be issued to:

- (1) A person who is not a resident of this state;
- (2) a person who has not been a resident of this state for at least four years immediately preceding the date of application;
- (3) a person who has a beneficial interest in a manufacturer, distributor, farm winery or microbrewery licensed under this act, except that the spouse of an applicant for a retailer's license may own and hold a farm winery license, microbrewery license, or both, if the spouse does not hold a retailer's license issued under this act;
- (4) a person who has a beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;
- (5) a copartnership, unless all of the copartners are qualified to obtain a license;
- (6) a corporation; or
- (7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(c) No manufacturer's license shall be issued to:

- (1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship and residence requirements;
- (2) a copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license under this act;
- (3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;
- (4) an individual who is not a resident of this state;
- (5) an individual who has not been a resident of this state for at least five years immediately preceding the date of application; or
- (6) a person who has a beneficial interest in a distributor, retailer, farm winery or microbrewery licensed under this act, except as provided in K.S.A. 41-305, and amendments thereto.

(d) No distributor's license shall be issued to:

- (1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the

provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

(2) a copartnership, unless all of the copartners are eligible to receive a distributor's license;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license; or

(4) a person who has a beneficial interest in a manufacturer, retailer, farm winery or microbrewery licensed under this act.

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

(f) No microbrewery license, microdistillery license or farm winery license shall be issued to a:

(1) Person who is not a resident of this state;

(2) person who has not been a resident of this state for at least one year immediately preceding the date of application;

(3) person who has a beneficial interest in a manufacturer or distributor licensed under this act, except as provided in K.S.A. 41-305, and amendments thereto;

(4) person, copartnership or association which has a beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto, except that the spouse of an applicant for a microbrewery or farm winery license may own and hold a retailer's license if the spouse does not hold a microbrewery or farm winery license issued under this act;

(5) copartnership, unless all of the copartners are qualified to obtain a license;

(6) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;

(3) has been convicted of being the keeper or is keeping any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;

(4) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes; or

(5) is less than 21 years of age.";

Also on page 5; in line 17, by striking "2012" and inserting "2013"; also in line 17, by striking "41-102 and"; also in line 17, after "41-104" by inserting ", 41-308b, 41-308d and 41-311"; in line 19, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, by striking "2012" and inserting "2013"; also in line 2, by striking "41-102 and"; also in line 2, after "41-104" by inserting ", 41-308b, 41-308d and 41-311"; and the bill be passed as amended.

Also, **HB 2272** be amended on page 1, by striking all in lines 6 through 36;

By striking all on pages 2 through 6;

On page 7, by striking all in lines 1 through 26 and inserting:

"Section 1. K.S.A. 2013 Supp. 74-8734 is hereby amended to read as follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming facility in each gaming zone.

(b) Not more than 30 days after the effective date of this act the lottery commission shall adopt and publish in the Kansas register the procedure for receiving, considering and approving, proposed lottery gaming facility management contracts. Such procedure shall include provisions for review of competitive proposals within a gaming zone and the date by which proposed lottery gaming facility management contracts must be received by the lottery commission if they are to receive consideration.

(c) The lottery commission shall adopt standards to promote the integrity of the gaming and finances of lottery gaming facilities, which shall apply to all management contracts, shall meet or exceed industry standards for monitoring and controlling the gaming and finances of gaming facilities and shall give the executive director sufficient authority to monitor and control the gaming operation and to ensure its integrity and security.

(d) The Kansas lottery commission may approve management contracts with one or more prospective lottery gaming facility managers to manage, or construct and manage, on behalf of the state of Kansas and subject to the operational control of the Kansas lottery, a lottery gaming facility or lottery gaming enterprise at specified destination locations within the northeast, south central, southwest and southeast Kansas gaming zones where the commission determines the operation of such facility would promote tourism and economic development. The commission shall approve or disapprove a proposed management contract within 90 days after the deadline for receipt of proposals established pursuant to subsection (b).

(e) In determining whether to approve a management contract with a prospective lottery gaming facility manager to manage a lottery gaming facility or lottery gaming enterprise pursuant to this section, the commission shall take into consideration the following factors: The size of the proposed facility; the geographic area in which such facility is to be located; the proposed facility's location as a tourist and entertainment destination; the estimated number of tourists that would be attracted by the proposed facility; the number and type of lottery facility games to be operated at the proposed facility; and agreements related to ancillary lottery gaming facility operations.

(f) Subject to the requirements of this section, the commission shall approve at least one proposed lottery gaming facility management contract for a lottery gaming facility in each gaming zone.

(g) The commission shall not approve a management contract unless:

(1) (A) The prospective lottery gaming facility manager is a resident Kansas American Indian tribe and, at a minimum: (i) Has sufficient access to financial resources to support the activities required of a lottery gaming facility manager under the Kansas expanded lottery act; and (ii) has three consecutive years' experience in the management of gaming which would be class III gaming, as defined in K.S.A. 46-2301, and amendments thereto, operated pursuant to state or federal law; or

(B) the prospective lottery gaming facility manager is not a resident Kansas American Indian tribe and, at a minimum: (i) Has sufficient access to financial resources to support the activities required of a lottery gaming facility manager under the Kansas expanded lottery act; (ii) is current in filing all applicable tax returns and in payment of all taxes, interest and penalties owed to the state of Kansas and any taxing subdivision where such prospective manager is located in the state of Kansas, excluding items under formal appeal pursuant to applicable statutes; and (iii) has three consecutive years' experience in the management of gaming which would be class III gaming, as defined in K.S.A. 46-2301, and amendments thereto, operated pursuant to state or federal law; and

(2) the commission determines that the proposed development consists of an investment in infrastructure, including ancillary lottery gaming facility operations, of at least \$225,000,000 in the northeast, ~~southeast~~ and south central Kansas gaming zones and of at least \$50,000,000 in the ~~southeast and~~ southwest Kansas gaming ~~zone zones~~. The commission, in determining whether the minimum investment required by this subsection is met, shall not include any amounts derived from or financed by state or local retailers' sales tax revenues.

(h) Any management contract approved by the commission under this section shall:

(1) Have a maximum initial term of 15 years from the date of opening of the lottery gaming facility. At the end of the initial term, the contract may be renewed by mutual

consent of the state and the lottery gaming facility manager;

(2) specify the total amount to be paid to the lottery gaming facility manager pursuant to the contract;

(3) establish a mechanism to facilitate payment of lottery gaming facility expenses, payment of the lottery gaming facility manager's share of the lottery gaming facility revenues and distribution of the state's share of the lottery gaming facility revenues;

(4) include a provision for the lottery gaming facility manager to pay the costs of oversight and regulation of the lottery gaming facility manager and the operations of the lottery gaming facility by the Kansas racing and gaming commission;

(5) establish the types of lottery facility games to be installed in such facility;

(6) provide for the prospective lottery gaming facility manager, upon approval of the proposed lottery gaming facility management contract, to pay to the state treasurer a privilege fee of \$25,000,000 for the privilege of being selected as a lottery gaming facility manager of a lottery gaming facility in the northeast, ~~southeast~~ or south central Kansas gaming zone and \$5,500,000 for the privilege of being selected as a lottery gaming facility manager of a lottery gaming facility in the southeast or southwest Kansas gaming zone. Such fee shall be deposited in the state treasury and credited to the lottery gaming facility manager fund, which is hereby created in the state treasury;

(7) incorporate terms and conditions for the ancillary lottery gaming facility operations;

(8) designate as key employees, subject to approval of the executive director, any employees or contractors providing services or functions which are related to lottery facility games authorized by a management contract;

(9) include financing commitments for construction;

(10) include a resolution of endorsement from the city governing body, if the proposed facility is within the corporate limits of a city, or from the county commission, if the proposed facility is located in the unincorporated area of the county;

(11) include a requirement that any parimutuel licensee developing a lottery gaming facility pursuant to this act comply with all orders and rules and regulations of the Kansas racing and gaming commission with regard to the conduct of live racing, including the same minimum days of racing as specified in K.S.A. ~~2012~~ 2013 Supp. 74-8746, and amendments thereto, for operation of electronic gaming machines at racetrack gaming facilities;

(12) include a provision for the state to receive not less than 22% of lottery gaming facility revenues, which shall be paid to the expanded lottery act revenues fund established by K.S.A. ~~2012~~ 2013 Supp. 74-8768, and amendments thereto;

(13) include a provision for 2% of lottery gaming facility revenues to be paid to the problem gambling and addictions grant fund established by K.S.A. ~~2012~~ 2013 Supp. 79-4805, and amendments thereto;

(14) if the prospective lottery gaming facility manager is an American Indian tribe, include a provision that such tribe agrees to waive its sovereign immunity with respect to any actions arising from or to enforce either the Kansas expanded lottery act or any provision of the lottery gaming facility management contract; any action brought by an injured patron or by the state of Kansas; any action for purposes of enforcing the workers compensation act or any other employment or labor law; and any action to enforce laws, rules and regulations and codes pertaining to health, safety and consumer protection; and for any other purpose deemed necessary by the executive director to

protect patrons or employees and promote fair competition between the tribe and others seeking a lottery gaming facility management contract;

(15) (A) if the lottery gaming facility is located in the northeast or southwest Kansas gaming zone and is not located within a city, include a provision for payment of an amount equal to 3% of the lottery gaming facility revenues to the county in which the lottery gaming facility is located; or (B) if the lottery gaming facility is located in the northeast or southwest Kansas gaming zone and is located within a city, include provision for payment of an amount equal to 1.5% of the lottery gaming facility revenues to the city in which the lottery gaming facility is located and an amount equal to 1.5% of such revenues to the county in which such facility is located;

(16) (A) if the lottery gaming facility is located in the southeast or south central Kansas gaming zone and is not located within a city, include a provision for payment of an amount equal to 2% of the lottery gaming facility revenues to the county in which the lottery gaming facility is located and an amount equal to 1% of such revenues to the other county in such zone; or (B) if the lottery gaming facility is located in the southeast or south central Kansas gaming zone and is located within a city, provide for payment of an amount equal to 1% of the lottery gaming facility revenues to the city in which the lottery gaming facility is located, an amount equal to 1% of such revenues to the county in which such facility is located and an amount equal to 1% of such revenues to the other county in such zone;

(17) allow the lottery gaming facility manager to manage the lottery gaming facility in a manner consistent with this act and applicable law, but shall place full, complete and ultimate ownership and operational control of the gaming operation of the lottery gaming facility with the Kansas lottery. The Kansas lottery shall not delegate and shall explicitly retain the power to overrule any action of the lottery gaming facility manager affecting the gaming operation without prior notice. The Kansas lottery shall retain full control over all decisions concerning lottery gaming facility games;

(18) include provisions for the Kansas racing and gaming commission to oversee all lottery gaming facility operations, including, but not limited to: Oversight of internal controls; oversight of security of facilities; performance of background investigations, determination of qualifications and credentialing of employees, contractors and agents of the lottery gaming facility manager and of ancillary lottery gaming facility operations, as determined by the Kansas racing and gaming commission; auditing of lottery gaming facility revenues; enforcement of all state laws and maintenance of the integrity of gaming operations; and

(19) include enforceable provisions: (A) Prohibiting the state, until July 1, 2032, from: (i) Entering into management contracts for more than four lottery gaming facilities or similar gaming facilities, one to be located in the northeast Kansas gaming zone, one to be located in the south central Kansas gaming zone, one to be located in the southwest Kansas gaming zone and one to be located in the southeast Kansas gaming zone; (ii) designating additional areas of the state where operation of lottery gaming facilities or similar gaming facilities would be authorized; or (iii) operating an aggregate of more than 2,800 electronic gaming machines at all parimutuel licensee locations; and (B) requiring the state to repay to the lottery gaming facility manager an amount equal to the privilege fee paid by such lottery gaming facility manager, plus interest on such amount, compounded annually at the rate of 10%, if the state violates the prohibition provision described in (A).

(i) The power of eminent domain shall not be used to acquire any interest in real property for use in a lottery gaming enterprise.

(j) Any proposed management contract for which the privilege fee has not been paid to the state treasurer within 30 days after the date of approval of the management contract shall be null and void.

(k) A person who is the manager of the racetrack gaming facility in a gaming zone shall not be eligible to be the manager of the lottery gaming facility in the same zone.

(l) Management contracts authorized by this section may include provisions relating to:

(1) Accounting procedures to determine the lottery gaming facility revenues, unclaimed prizes and credits;

(2) minimum requirements for a lottery gaming facility manager to provide qualified oversight, security and supervision of the lottery facility games including the use of qualified personnel with experience in applicable technology;

(3) eligibility requirements for employees, contractors or agents of a lottery gaming facility manager who will have responsibility for or involvement with actual gaming activities or for the handling of cash or tokens;

(4) background investigations to be performed by the Kansas racing and gaming commission;

(5) credentialing requirements for any employee, contractor or agent of the lottery gaming facility manager or of any ancillary lottery gaming facility operation as provided by the Kansas expanded lottery act or rules and regulations adopted pursuant thereto;

(6) provision for termination of the management contract by either party for cause; and

(7) any other provision deemed necessary by the parties, including such other terms and restrictions as necessary to conduct any lottery facility game in a legal and fair manner.

(m) A management contract shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, except upon approval by the executive director, nor shall it be subject to being encumbered or hypothecated. The trustee of any insolvent or bankrupt lottery gaming facility manager may continue to operate pursuant to the management contract under order of the appropriate court for no longer than one year after the bankruptcy or insolvency of such manager.

(n) (1) The Kansas lottery shall be the licensee and owner of all software programs used at a lottery gaming facility for any lottery facility game.

(2) A lottery gaming facility manager, on behalf of the state, shall purchase or lease for the Kansas lottery all lottery facility games. All lottery facility games shall be subject to the ultimate control of the Kansas lottery in accordance with this act.

(o) A lottery gaming facility shall comply with any planning and zoning regulations of the city or county in which it is to be located. The executive director shall not contract with any prospective lottery gaming facility manager for the operation and management of such lottery gaming facility unless such manager first receives any necessary approval under planning and zoning requirements of the city or county in which it is to be located.

(p) Prior to expiration of the term of a lottery gaming facility management contract,

the lottery commission may negotiate a new lottery gaming facility management contract with the lottery gaming facility manager if the new contract is substantially the same as the existing contract. Otherwise, the lottery gaming facility review board shall be reconstituted and a new lottery gaming facility management contract shall be negotiated and approved in the manner provided by this act.";

Also on page 7, in line 27, by striking "2012" and inserting "2013"; also in line 27, by striking "79-201a" and inserting "74-8734";

On page 1, in the title, in line 1, by striking "property tax exemption; relating to industrial revenue"; by striking all in line 2 and inserting "gaming; amending K.S.A. 2013 Supp. 74-8734"; and the bill be passed as amended.

HB 2578, as amended by House Committee, be amended on page 1, in line 21, after "certify" by inserting "because of specific acts or information directly related to the applicant. A generalized belief by the chief law enforcement officer that certain types of firearms have no lawful purpose or should not be possessed even by those who are not otherwise prohibited by law from possessing or receiving them shall not be sufficient reason to deny certification under this section"; and the bill be passed as amended.

HB 2580, as amended by House Committee of the Whole, be amended on page 1, in line 22, by striking "or"; in line 23, by striking "search and rescue"; in line 28, after "party's" by inserting "negligent or willful"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2099**, as amended by House Committee, on page 1, by striking all in lines 7 through 36;

By striking all on pages 2 and 3;

On page 4, by striking all in lines 1 through 7 and inserting the following:

"Section 1. K.S.A. 2013 Supp. 40-229a is hereby amended to read as follows: 40-229a. (a) (1) (A) All cash, securities, ~~real estate deeds, mortgages~~ or other assets, excluding real estate and mortgages, deposited with the commissioner of insurance pursuant to the provisions of the insurance code of the state of Kansas shall be deposited with any Kansas financial institution acceptable to the commissioner through which a custodial or controlled account, a joint custody receipt arrangement or any combination of these or other measures that are acceptable to the commissioner is used.

(B) All such deposits shall be held by such financial institution on behalf of the commissioner in trust for the use and benefit of such company and such company's policyholders and creditors. Such assets shall be released from such deposits only upon written approval of the commissioner.

(C) All income from deposits belong to the depositing organization and shall be paid to it as it becomes available. The commissioner, upon written approval, may direct the financial institution to permit exchange of securities or assets upon deposit of specified substituted securities or assets.

(D) An authorized signature form must be submitted to the commissioner of insurance prior to acceptance of any deposit. Each signature on the authorized signature form must be the original handwritten name of each signee. No copies, facsimiles, electronic or digital signatures will be recognized on this form.

~~(D)~~ (E) All forms for deposit, withdrawal or exchange shall be prescribed, prepared and furnished by the commissioner and no facsimile signatures shall be used or recognized.

~~(E)~~ (F) The commissioner or assistant commissioner of insurance or insurance department employee authorized by the commissioner may at any time inspect the

securities on deposit in any such financial institution.

(F) (G) Nothing in this act shall be construed to hold the state of Kansas, the commissioner, assistant commissioner or authorized employee liable either personally or officially for any default of such financial institution.

~~(2) Real estate shall be deposited with the commissioner by the depositing organization executing a deed or assignment conveying title thereto to the commissioner, in trust for the use and benefit of such company. Such deeds or assignment shall be recorded in the office of the register of deeds of the county in which such real estate is situated. When the depositing organization is authorized to withdraw real estate from deposit, the commissioner shall execute deeds to such organization or such other persons, companies or corporations as directed by such organization. The costs of registering such deeds shall be paid by the depositing organization.~~

~~(3) All deposits made with the commissioner shall be audited by the commissioner and the state treasurer not less frequently than once each three years. The commissioner may accept an audit performed by another governmental agency acceptable to the commissioner, in lieu of this audit requirement.~~

(b) ~~Assets, except real estate assets,~~ deposited pursuant to this section shall be held by the custodian on behalf of the commissioner as in trust for the use and benefit of the depositing organization. Such assets shall remain the specific property of the organization and shall not be subject to the claim of any third party against the custodian.

(c) The custodian is authorized to redeposit such assets with a clearing corporation as defined in K.S.A. 84-8-102, and amendments thereto, if such clearing corporation is domiciled in the United States. The custodian is authorized to hold such assets through the federal reserve bank book-entry system.

(d) The commissioner shall adopt rules and regulations to establish requirements relating to deposits under this section appropriate to assure the security and safety of such deposits, including, but not limited to, the following:

- (1) Capital and surplus of the custodian;
- (2) title in which deposited assets are held;
- (3) records to be kept by the custodian and the commissioner's access thereto;
- (4) periodic reports by the custodian to the commissioner;
- (5) responsibility of the custodian to indemnify the depositor for loss of deposited assets;
- (6) withdrawal or exchange of deposited assets; and
- (7) authority of the commissioner to terminate the deposit if the condition of the custodian should threaten the security of the deposited assets.

(e) As used in this section:

- (1) "Commissioner" means the commissioner of insurance; and
- (2) "financial institution" means a federal home loan bank, a savings and loan association and savings bank organized under the laws of the United States or another state, a national bank, state bank or trust company, which have main or branch offices in this state, shall at all times during which such federal home loan bank, savings and loan association, savings bank, national bank, state bank or trust company acts as a custodian be:

(A) No less than adequately capitalized as determined by the standards adopted by the regulator charged with establishing standards for, and assessing, the institution's

solvency;

(B) regulated by either state or federal banking laws, the federal home loan bank act, as amended or is a member of the federal reserve system; and

(C) legally qualified to accept custody of securities.

(3) "Main office" and "branch" shall have the meanings ascribed to such terms in K.S.A. 9-1408, and amendments thereto.

Sec. 2. K.S.A. 2013 Supp. 40-2c01 is hereby amended to read as follows: 40-2c01. As used in this act:

(a) "Adjusted RBC report" means an RBC report which has been adjusted by the commissioner in accordance with K.S.A. 40-2c04, and amendments thereto.

(b) "Corrective order" means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required to address an RBC level event.

(c) "Domestic insurer" means any insurance company or risk retention group which is licensed and organized in this state.

(d) "Foreign insurer" means any insurance company or risk retention group not domiciled in this state which is licensed or registered to do business in this state pursuant to article 41 of chapter 40 of the Kansas Statutes Annotated or K.S.A. 40-209, and amendments thereto.

(e) "NAIC" means the national association of insurance commissioners.

(f) "Life and health insurer" means any insurance company licensed under article 4 or 5 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or a licensed property and casualty insurer writing only accident and health insurance.

(g) "Property and casualty insurer" means any insurance company licensed under articles 9, 10, 11, 12, 12a, 15 or 16 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers and title insurers.

(h) "Negative trend" means, with respect to a life and health insurer, a negative trend over a period of time, as determined in accordance with the "trend test calculation" included in the RBC instructions defined in subsection (j).

(i) "RBC" means risk-based capital.

(j) "RBC instructions" means the risk-based capital instructions promulgated by the NAIC, which are in effect on December 31, ~~2012~~ 2013, or any later version promulgated by the NAIC as may be adopted by the commissioner under K.S.A. 2013 Supp. 40-2c29, and amendments thereto.

(k) "RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

(1) "Company action level RBC" means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;

(2) "regulatory action level RBC" means the product of 1.5 and its authorized control level RBC;

(3) "authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions; and

(4) "mandatory control level RBC" means the product of .70 and the authorized control level RBC.

(l) "RBC plan" means a comprehensive financial plan containing the elements specified in K.S.A. 40-2c06, and amendments thereto. If the commissioner rejects the

RBC plan, and it is revised by the insurer, with or without the commissioner's recommendation, the plan shall be called the "revised RBC plan."

(m) "RBC report" means the report required by K.S.A. 40-2c02, and amendments thereto.

(n) "Total adjusted capital" means the sum of:

- (1) An insurer's capital and surplus or surplus only if a mutual insurer; and
- (2) such other items, if any, as the RBC instructions may provide.

(o) "Commissioner" means the commissioner of insurance.

Sec. 3. K.S.A. 40-2a08 is hereby amended to read as follows: 40-2a08. Any insurance company other than life heretofore or hereafter organized under any law of this state may invest by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in the ~~common stock equity interests~~ of any ~~corporation business entity~~ organized and doing business under the laws of the United States of America, or of any state, district, insular or territorial possession thereof; or of the Dominion of Canada or any province thereof; or of any other country or subdivision thereof; in an amount, based upon cost, not exceeding 15% of its admitted assets ~~or not exceeding the combined capital and surplus, whichever is the lesser~~, as shown by the company's last annual report as filed with the state commissioner of insurance or a more recent quarterly financial statement as filed with the commissioner, on a form prescribed by the national association of insurance commissioners, within 45 days following the end of the calendar quarter to which the interim statement pertains. Such insurance company may write exchange traded, covered call options on ~~shares equity interests~~ it owns and may purchase call options for the sole purpose of closing out a position taken previously with respect to one or more options having been written. The purchase of a call option for any reason other than as a closing transaction and the writing of naked (uncovered) call options are hereby prohibited. Investments in ~~common stocks equity interests~~ and the writing of call options shall be further limited as follows: provided in subsections (a) through (g) except that subsections (a) through (e) shall only apply to an amount that exceeds 7.5% of any insurance company's admitted assets.

(a) The obligations, if any, shown on the last published annual statement of such ~~corporation business entity~~ must be eligible for investment under K.S.A. 40-2a05, and amendments thereto;

(b) cash dividends have been paid during each of the last three years preceding the date of acquisition;

(c) the ~~stock equity interest~~ is registered with a national securities exchange regulated under the securities exchange act of 1934, as amended, or is regularly traded on a national or regional basis;

(d) the ~~company business entity~~ shall have earnings in three of the last five years preceding the date of acquisition;

(e) ~~investments in common stock in any one corporation shall at no time exceed 2% of the admitted assets of the investing insurance company determined on the basis of the cost of such shares to the insurance company at time of purchase, and at no time shall an insurance company purchase more than 5% of the outstanding shares of stock of any one given corporation at no time shall an insurance company invest in more than 5% of the outstanding equity interests of any one such business entity, nor an amount more than 2% of the investing insurance company's admitted assets in the outstanding~~

equity interests of any one such business entity, determined on the basis of the cost of such equity interests to the insurance company at the time of purchase;

(f) ~~stock an equity interest~~ owned by an insurance company that is obligated under an unexpired written call option shall be valued at the lesser of the striking price or current market value. For the purposes of this subsection, "striking price" means the price per ~~share equity interest~~, exclusive of selling costs, the company would receive should the call option be exercised by the holder;

(g) the provisions of subsections (b) and (d) shall not apply, if at the time of acquisition:

(1) The issuing ~~corporation business entity~~ has net assets of \$10,000,000 or more;

(2) the issuing ~~corporation business entity~~ has a net worth of \$1,000,000 or more; and

(3) the issuing ~~corporation business entity~~ has an aggregate market value of \$500,000,000 or more.

(h) As used in this section:

(1) "Business entity" includes a sole proprietorship, corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund, trust, joint tenancy or other similar form of business organization, whether organized for profit or not-for-profit.

(2) "Equity interest" means any of the following:

(A) Common stock;

(B) trust certificate;

(C) equity investment in an investment company other than a money market mutual fund permitted under K.S.A. 40-2a22, and amendments thereto;

(D) investment in a common trust fund of a bank regulated by a federal or state agency;

(E) an ownership interest in minerals, oil or gas, the rights to which have been separated from the underlying fee interest in the real estate where the minerals, oil or gas are located;

(F) instruments which are mandatorily, or at the option of the issuer, convertible to equity;

(G) limited partnership interests;

(H) member interests in limited liability companies;

(I) warrants or other rights to acquire equity interests that are created by the person that owns or would issue the equity to be acquired; or

(J) any other security representing an ownership interest in a business entity.

Sec. 4. K.S.A. 40-2a14 is hereby amended to read as follows: 40-2a14. Any insurance company other than life heretofore or hereafter organized under any law of this state may invest with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in loans secured by collateral consisting of a pledge of bonds, securities, stock or evidences of indebtedness qualified in ~~K.S.A. 40-2a01 to 40-2a08, Provided, inclusive: That article 2a of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, except that the amount of the loan is not in excess of eighty percent (80%) shall not exceed 80% of the market value of the securities. Provided further, That asset securing the loan. In addition, all restrictions, limitations or conditions placed on any security investment authorized within K.S.A. 40-2a01 to 40-2a08, inclusive: Provided, That article 2a of~~

chapter 40 of the Kansas Statutes Annotated, and amendments thereto, shall apply to the collateral securities pledged to the payment of loans authorized in this section.

Sec. 5. K.S.A. 2013 Supp. 40-2a27 is hereby amended to read as follows: 40-2a27.

(a) No insurance company shall acquire, directly or indirectly, any medium grade or lower grade obligation of any institution if, after giving effect to any such acquisition, the aggregate amount of all medium grade and lower grade obligations then held by such insurer would exceed 20% of its admitted assets. Within this limitation no more than 10% of its admitted assets shall consist of lower grade obligations; no more than three percent of its admitted assets shall consist of obligations designated "5" or "6" in the valuations of securities manual; and, no more than one percent of its admitted assets shall consist of obligations designated "6" in the valuations of securities manual. Attaining or exceeding the limit of any one category shall not preclude an insurer from acquiring obligations in other categories subject to the specific and multi-category limits.

(b) No insurer organized under the laws of this state may invest more than one percent of its admitted assets in medium grade obligations issued, guaranteed or insured by any one institution nor may it invest more than one-half of one percent of its admitted assets in lower grade obligations issued, guaranteed or insured by any one institution. In no event, shall such insurer invest more than one percent of its admitted assets in any medium or lower grade obligations issued, guaranteed or insured by any one institution.

(c) Nothing contained in this act shall prohibit an insurer from acquiring any obligations which it has committed to acquire if the insurer would have been permitted to acquire that obligation pursuant to this act on the date on which such insurer committed to purchase that obligation.

(d) Notwithstanding the limitations of subsection (b) an insurer may acquire an obligation of an institution in which the insurer already has one or more obligations, if the obligation is acquired in order to protect an investment previously made in the obligations of the institution, except all such acquired obligations shall not exceed one-half of one percent of the insurer's admitted assets.

(e) Nothing contained in this act shall prohibit an insurer to which this act applies from acquiring an obligation as a result of a restructuring of a medium or lower grade obligation already held or require such insurer to sell or otherwise dispose of any obligation legally acquired prior to the effective date of this act.

(f) Nothing contained in this act shall permit or be construed as permitting an insurer to exceed, alter or otherwise circumvent any of the limitations or restrictions applicable to the investments authorized by ~~K.S.A. 40-2a01 et seq.~~ article 2a of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

~~(g) Notwithstanding the provisions of K.S.A. 40-2a16, and amendments thereto, the total investment in medium and lower grade securities shall not exceed the limitations set forth in this section.~~

~~(h)~~ (g) The board of directors of any insurance company organized under the laws of this state which acquires or invests, directly or indirectly, more than two percent of its admitted assets in medium grade and lower grade obligations, shall adopt a written plan for the making of such investments. The plan, in addition to guidelines with respect to the quality of the issues invested in, shall contain diversification standards acceptable to the commissioner which may include, but not be limited to, standards for

issuer, industry, duration, liquidity and geographic location.

Sec. 6. K.S.A. 40-2a28 is hereby amended to read as follows: 40-2a28. (a) Any insurance company other than life organized under any law of this state may invest, by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof, in asset-backed securities, subject to the following:

(1) To be an admitted asset under this section, an asset-backed security must, at the time of acquisition, be designated "1" or "2" by the national association of insurance commissioners in its most recently published valuations of securities manual or supplement thereto; and

(2) the investment in any one issue of asset-backed securities shall not exceed 2% of the admitted assets of the investing insurance company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner. Each issue designated as provided in paragraph (1) shall constitute a single issue regardless of any other obligations or securities issued by the same or any affiliated issuer; and

~~(3) the investing company's aggregate investment in asset-backed securities as provided in this section shall not exceed 20% of the admitted assets of such company, as shown by such company's last annual report as filed with the commissioner of insurance or a more recent quarterly financial statement as filed with the commissioner, on a form prescribed by the national association of insurance commissioners, within 45 days following the end of the calendar quarter to which the interim statement pertains.~~

(b) As used in this section:

(1) "Asset-backed security" means any security or other instrument representing or evidencing an interest in, a loan to, a participation in a loan to, or any other right to receive payments from a business entity of any type or form, which has as its primary business activity the acquisition and holding of financial assets, directly or through a trustee, for the benefit of such business entity's debt or equity holders; and

(2) "financial asset" means a single asset or a pool of assets consisting of interest-bearing obligations or other contractual obligations representing or constituting the right to receive payment from the asset or pool of assets.

Sec. 7. K.S.A. 40-2b07 is hereby amended to read as follows: 40-2b07. Any life insurance company organized under any law of this state may invest by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in the ~~common stock~~ equity interests of any ~~corporation business entity~~ organized and doing business under the laws of the United States or any state, or of the District of Columbia, or of the Dominion of Canada or any province of the Dominion of Canada, in an amount, based upon cost, not exceeding 15% of its admitted assets ~~or not exceeding the combined capital and surplus, whichever is the lesser,~~ as shown by the company's last annual report as filed with the state commissioner of insurance or a more recent quarterly financial statement as filed with the commissioner, on a form prescribed by the national association of insurance commissioners, within 45 days following the end of the calendar quarter to which the interim statement pertains. Such life insurance company may write exchange traded, covered call options on ~~shares~~ equity interests it owns and may purchase call options for the sole purpose of closing out a position taken previously with respect to one or more options having been written. The purchase of a call option for any reason other than as a closing transaction and the writing of naked,

uncovered, call options are hereby prohibited. Investments in ~~common stocks equity interests~~ and the writing of call options shall be further limited as follows: provided in subsections (a) through (g) except that subsections (a) through (e) shall only apply to an amount that exceeds 7.5% of a life insurance company's admitted assets.

(a) The obligations, if any, shown on the last published annual statement of such ~~corporation business entity~~ must be eligible for investment under K.S.A. 40-2b05, and amendments thereto;

(b) cash dividends have been paid during each of the last three years preceding the date of acquisition;

(c) the ~~stock equity interest~~ is registered with a national securities exchange regulated under the securities exchange act of 1934, as amended, or is regularly traded on a national or regional basis;

(d) the ~~company business entity~~ shall have earnings in three of the last five years preceding the date of acquisition;

(e) at no time shall an insurance company invest in more than 5% of the ~~total number of the outstanding shares of any one such corporation outstanding equity interests of any one such business entity~~, nor an amount more than 2% of the investing insurance company's admitted assets in ~~shares the outstanding equity interests~~ of any one such ~~corporation business entity~~, determined on the basis of the cost of such ~~shares equity interests~~ to the insurance company at the time of purchase;

(f) ~~stock an equity interest~~ owned by an insurance company that is obligated under an unexpired written call option shall be valued at the lesser of the striking price or current market value. For the purposes of this subsection, "striking price" means the price per ~~share equity interest~~, exclusive of selling costs, the company would receive should the call option be exercised by the holder;

(g) the provisions of subsections (b) and (d) shall not apply if at the time of acquisition:

(1) The issuing ~~corporation business entity~~ has net assets of \$10,000,000 or more;

(2) the issuing ~~corporation business entity~~ has a net worth of \$1,000,000 or more; and

(3) the issuing ~~corporation business entity~~ has an aggregate market value of \$500,000,000 or more.

(h) As used in this section:

(1) "Business entity" includes a sole proprietorship, corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund, trust, joint tenancy or similar form of business organization, whether organized for profit or not-for-profit.

(2) "Equity interest" means any of the following:

(A) Common stock;

(B) trust certificate;

(C) equity investment in an investment company other than a money market mutual fund permitted under K.S.A. 40-2b24, and amendments thereto;

(D) investment in a common trust fund of a bank regulated by a federal or state agency;

(E) an ownership interest in minerals, oil or gas, the rights to which have been separated from the underlying fee interest in the real estate where the minerals, oil or gas are located;

(F) instruments which are mandatorily, or at the option of the issuer, convertible to equity;

(G) limited partnership interests;

(H) member interests in limited liability companies;

(I) warrants or other rights to acquire equity interests that are created by the person that owns or would issue the equity to be acquired; or

(J) any other security representing an ownership interest in a business entity.

Sec. 8. K.S.A. 40-2b12 is hereby amended to read as follows: 40-2b12. Any life insurance company heretofore or hereafter organized under any law of this state may invest by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in loans secured by collateral consisting of a pledge of bonds, mortgages, securities, stock or evidence of indebtedness qualified in ~~K.S.A. 40-2b01 to 40-2b09, inclusive. Provided, That article 2b of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, except that the amount of the loan is not in excess of eighty percent (80%) shall not exceed 80% of the market value of the securities. And provided further, That asset securing the loan. In addition, all restrictions, limitations or conditions placed on any security investment~~ authorized within ~~K.S.A. 40-2b01 to 40-2b09, inclusive article 2b of chapter 40 of the Kansas Statutes Annotated, and amendments thereto,~~ shall apply to the collateral ~~securities~~ pledged to the payment of loans authorized in this section.

Sec. 9. K.S.A. 2013 Supp. 40-2b28 is hereby amended to read as follows: 40-2b28. (a) No insurance company shall acquire, directly or indirectly, any medium grade or lower grade obligation of any institution if, after giving effect to any such acquisition, the aggregate amount of all medium grade and lower grade obligations then held by such insurer would exceed 20% of its admitted assets. Within this limitation no more than 10% of its admitted assets shall consist of lower grade obligations; no more than three percent of its admitted assets shall consist of obligations designated "5" or "6" in the valuations of securities manual; and, no more than one percent of its admitted assets shall consist of obligations designated "6" in the valuations of securities manual. Attaining or exceeding the limit of any one category shall not preclude an insurer from acquiring obligations in other categories subject to the specific and multi-category limits.

(b) No insurer organized under the laws of this state may invest more than one percent of its admitted assets in medium grade obligations issued, guaranteed or insured by any one institution nor may it invest more than one-half of one percent of its admitted assets in lower grade obligations issued, guaranteed or insured by any one institution. In no event, shall such insurer invest more than one percent of its admitted assets in any medium or lower grade obligations issued, guaranteed or insured by any one institution.

(c) Nothing contained in this act shall prohibit an insurer from acquiring any obligations which it has committed to acquire if the insurer would have been permitted to acquire that obligation pursuant to this act on the date on which such insurer committed to purchase that obligation.

(d) Notwithstanding the limitations of subsection (b), an insurer may acquire an obligation of an institution in which the insurer already has one or more obligations, if the obligation is acquired in order to protect an investment previously made in the obligations of the institution, except that all such acquired obligations shall not exceed

one-half of one percent of the insurer's admitted assets.

(e) Nothing contained in this act shall prohibit an insurer to which this act applies from acquiring an obligation as a result of a restructuring of a medium or lower grade obligation already held or require such insurer to sell or otherwise dispose of any obligation legally acquired prior to the effective date of this act.

(f) Nothing contained in this act shall permit or be construed as permitting an insurer to exceed, alter or otherwise circumvent any of the limitations or restrictions applicable to the investments authorized by K.S.A. 40-2b01 et seq., article 2b of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

~~(g) Notwithstanding the provisions of K.S.A. 40-2b13, and amendments thereto, the total investment in medium and lower grade securities shall not exceed the limitations set forth in this section.~~

~~(h)~~—The board of directors of any insurance company organized under the laws of this state which acquires or invests, directly or indirectly, more than two percent of its admitted assets in medium grade and lower grade obligations, shall adopt a written plan for the making of such investments. The plan, in addition to guidelines with respect to the quality of the issues invested in, shall contain diversification standards acceptable to the commissioner which may include, but not be limited to, standards for issuer, industry, duration, liquidity and geographic location.

Sec. 10. K.S.A. 40-2b29 is hereby amended to read as follows: 40-2b29. (a) Any life insurance company organized under any law of this state may invest, by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof, in asset-backed securities, subject to the following:

(1) To be an admitted asset under this section, an asset-backed security must, at the time of acquisition, be designated "1" or "2" by the national association of insurance commissioners in its most recently published valuations of securities manual or supplement thereto; and

(2) the investment in any one issue of asset-backed securities shall not exceed 2% of the admitted assets of the life insurance company as shown by its last annual report or a more recent quarterly financial statement filed with the commissioner. Each issue designated as provided in paragraph (1) shall constitute a single issue regardless of any other obligations or securities issued by the same or any affiliated issuer; and

~~(3) the life insurance company's aggregate investment in asset-backed securities as provided in this section shall not exceed 20% of the admitted assets of such company, as shown by such company's last annual report as filed with the commissioner of insurance or a more recent quarterly financial statement as filed with the commissioner, on a form prescribed by the national association of insurance commissioners, within 45 days following the end of the calendar quarter to which the interim statement pertains.~~

(b) As used in this section:

(1) "Asset-backed security" means any security or other instrument representing or evidencing an interest in, a loan to, a participation in a loan to, or any other right to receive payments from a business entity of any type or form, which has as its primary business activity the acquisition and holding of financial assets, directly or through a trustee, for the benefit of such business entity's debt or equity holders; and

(2) "financial asset" means a single asset or a pool of assets consisting of interest-bearing obligations or other contractual obligations representing or constituting the right

to receive payment from the asset or pool of assets.

Sec. 11. K.S.A. 2-224 is hereby amended to read as follows: 2-224. (a) The state fair board is hereby authorized to purchase safe burglary and messenger robbery insurance coverage in amounts deemed appropriate by such board for the period of the annual Kansas state fair and during the remainder of the year. Such board is also authorized to purchase insurance coverage for any rented or borrowed motorized vehicles used during the state fair indemnifying the board against loss or damage to such vehicles and against liability for the operation of such vehicles. ~~The insurance shall be acquired through the committee on surety bonds and insurance as provided by law.~~

(b) The state fair board is hereby authorized to purchase event cancellation and rain insurance coverage in amounts deemed appropriate by such board for the period of the annual Kansas state fair and during the remainder of the year.

(c) Any insurance purchased pursuant to this section shall not be required to be acquired through the committee on surety bonds and insurance as required by K.S.A. 75-4101 et seq., and amendments thereto.

Sec. 12. K.S.A. 2013 Supp. 75-4105 is hereby amended to read as follows: 75-4105. Except as provided in K.S.A. 2013 Supp. 75-4125 and K.S.A. 2-224, and amendments thereto, all surety bonds and insurance contracts purchased pursuant to this act shall be purchased by the committee in the manner prescribed for the purchase of supplies, materials, equipment or contractual services under K.S.A. 75-3738 to 75-3744, inclusive, and amendments thereto. The director of accounts and reports shall not pay any premium or rate on any surety bond or insurance contract until the purchase of such surety bond or contract shall have been approved by the secretary of the committee. Surety bonds or insurance contracts having a premium or rate in excess of \$500 purchased hereunder shall be purchased on sealed bids as provided by law for the purchase of other materials, equipment or contractual services. Where more than one state agency is covered by any bond or insurance contract, the committee shall prorate the cost of premiums or rates on any and all such bonds or contracts, except as provided in K.S.A. 75-4114, and amendments thereto, purchased as charges upon the funds of the state agency wherein any covered state officers or employees are employed or covered property is located or controlled. Such prorated charges shall constitute a lawful charge by the committee upon the funds available to any such state agency and shall be paid by each such state agency to the committee, or to the surety or insurance carrier if the committee requires it, in the manner provided by law for the payment of other obligations of such state agency.

Sec. 13. K.S.A. 2013 Supp. 75-4109 is hereby amended to read as follows: 75-4109. (a) Subject to the provisions of K.S.A. 2-224, and amendments thereto, the committee, at least once every three years, shall approve the property and casualty insurance coverages that shall be purchased by each state agency.

(b) Subject to the provisions of K.S.A. 2-224, and amendments thereto, the committee shall require that each state agency purchase the insurance coverages prescribed by K.S.A. 74-4703, 74-4705, 74-4707, 75-712e, 75-2728, 76-218, 76-391, 76-394, 76-747 and 76-491, and amendments to these sections thereto, and shall prescribe the terms, conditions and amounts of such coverage giving due regard to the operations and requirements of the agencies involved.

(c) Subject to the provisions of K.S.A. 2-224, and amendments thereto, the

committee shall, in addition to the coverages specified in subsection (b), designate the insurance coverages to be purchased by each state agency that are deemed by the committee to be necessary to protect the state for property of others that may be in the possession or control of such state agencies.

(d) Such coverages as are specified in subsections (b) and (c) may also include coverages on property of the state that are deemed by the committee to be incidental to the basic coverages herein required, and the committee shall prescribe the terms, conditions and amounts of all insurance coverages purchased pursuant to this section. Property of the state board of regents of any university or college which is referred to in subsection (b) may be self-insured as provided under this act.

(e) No property insurance coverage may be purchased by the committee, except as provided herein or by K.S.A. 2013 Supp. 75-4125, and amendments thereto, or specifically required by other Kansas statutes or appropriations.

Sec. 14. K.S.A. 2013 Supp. 40-3118 is hereby amended to read as follows: 40-3118. (a) No motor vehicle shall be registered or reregistered in this state unless the owner, at the time of registration, has in effect a policy of motor vehicle liability insurance covering such motor vehicle, as provided in this act, or is a self-insurer thereof, or the motor vehicle is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such policy of motor vehicle liability insurance is provided by the school district or accredited nonpublic school. As used in this section, the term "financial security" means such policy or self-insurance. The director shall require that the owner certify and provide verification of financial security, in the manner prescribed by K.S.A. 8-173, and amendments thereto, that the owner has such financial security, and the owner of each motor vehicle registered in this state shall maintain financial security continuously throughout the period of registration. In addition, when an owner certifies that such financial security is a motor vehicle liability insurance policy meeting the requirements of this act, the director may require that the owner or owner's insurance company produce records to prove the fact that such insurance was in effect at the time the vehicle was registered and has been maintained continuously from that date. Such records may be produced by displaying such records on a cellular phone or any other type of portable electronic device. Any person to whom such records are displayed on such cellular phone or other type of portable electronic device shall be prohibited from viewing any other content or information stored on such cellular phone or other type of portable electronic device. Failure to produce such records shall be prima facie evidence that no financial security exists with regard to the vehicle concerned. It shall be the duty of insurance companies, upon the request of the director, to notify the director within 30 calendar days of the date of the receipt of such request by the director of any insurance that was not in effect on the date of registration and maintained continuously from that date.

(b) Except as otherwise provided in K.S.A. 40-276, 40-276a and 40-277, and amendments thereto, and except for termination of insurance resulting from nonpayment of premium or upon the request for cancellation by the insured, no motor vehicle liability insurance policy, or any renewal thereof, shall be terminated by cancellation or failure to renew by the insurer until at least 30 days after mailing a notice of termination, by certified or registered mail or United States post office

certificate of mailing, to the named insured at the latest address filed with the insurer by or on behalf of the insured. Time of the effective date and hour of termination stated in the notice shall become the end of the policy period. Every such notice of termination sent to the insured for any cause whatsoever shall include on the face of the notice a statement that financial security for every motor vehicle covered by the policy is required to be maintained continuously throughout the registration period, that the operation of any such motor vehicle without maintaining continuous financial security therefor is a class B misdemeanor and shall be subject to a fine of not less than \$300 and not more than \$1,000, and that the registration for any such motor vehicle for which continuous financial security is not provided is subject to suspension and the driver's license of the owner thereof is subject to suspension.

(c) The director of vehicles shall verify a sufficient number of insurance certifications each calendar year as the director deems necessary to insure compliance with the provisions of this act. The owner or owner's insurance company shall verify the accuracy of any owner's certification upon request, as provided in subsection (a).

(d) (1) In addition to any other requirements of this act, the director shall require a person to acquire insurance and for such person's insurance company to maintain on file with the division evidence of such insurance for a period of one year when a person has been convicted in this or another state of any of the violations enumerated in K.S.A. 8-285, and amendments thereto.

(2) The director shall also require any driver whose driving privileges have been suspended pursuant to this section to maintain such evidence of insurance as required above.

(3) The company of the insured shall immediately mail notice to the director whenever any policy required by this subsection to be on file with the division is terminated by the insured or the insurer for any reason. The receipt by the director of such termination shall be prima facie evidence that no financial security exists with regard to the person concerned.

(4) No cancellation notice shall be sent to the director if the insured adds or deletes a vehicle, adds or deletes a driver, renews a policy or is issued a new policy by the same company. No cancellation notice shall be sent to the director prior to the date the policy is terminated if the company allows a grace period for payment until such grace period has expired and the policy is actually terminated.

(5) For the purposes of this act, the term "conviction" includes pleading guilty or nolo contendere, being convicted or being found guilty of any violation enumerated in this subsection without regard to whether sentence was suspended or probation granted. A forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

(6) The requirements of this subsection shall apply whether or not such person owns a motor vehicle.

(e) Whenever the director shall receive prima facie evidence, as prescribed by this section, that continuous financial security covering any motor vehicle registered in this state is not in effect, the director shall notify the owner by registered or certified mail or United States post office certificate of mailing that, at the end of 30 days after the notice is mailed, the registration for such motor vehicle and the driving privileges of the owner of the vehicle shall be suspended or revoked, pursuant to such rules and regulations as the secretary of revenue shall adopt, unless within 10 days after the notice is mailed: (1)

Such owner shall demonstrate proof of continuous financial security covering such vehicle to the satisfaction of the director. Such proof of continuous financial security may be provided by the owner by displaying such proof on a cellular phone or other portable electronic device; or (2) such owner shall mail a written request which is postmarked within 10 days after the notice is mailed requesting a hearing with the director. Any person to whom such proof of continuous financial security is displayed on a cellular phone or other portable electronic device shall view only such evidence of continuous financial security. Such person shall be prohibited from viewing any other content or information stored on such cellular phone or other portable electronic device. Upon receipt of a timely request for a hearing, the director shall afford such person an opportunity for hearing within the time and in the manner provided in K.S.A. 8-255, and amendments thereto. If, within the ten-day period or at the hearing, such owner is unable to demonstrate proof of continuous financial security covering the motor vehicle in question, the director shall revoke the registration of such motor vehicle and suspend the driving privileges of the owner of the vehicle.

(f) Whenever the registration of a motor vehicle or the driving privileges of the owner of the vehicle are suspended or revoked for failure of the owner to maintain continuous financial security, such suspension or revocation shall remain in effect until satisfactory proof of insurance has been filed with the director as required by subsection (d) and a reinstatement fee in the amount herein prescribed is paid to the division of vehicles. Such reinstatement fee shall be in the amount of \$100 except that if the registration of a motor vehicle of any owner is revoked within one year following a prior revocation of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be in the amount of \$300. The division of vehicles shall remit such fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund.

(g) In no case shall any motor vehicle, the registration of which has been revoked for failure to have continuous financial security, be reregistered in the name of the owner thereof, the owner's spouse, parent or child or any member of the same household, until the owner complies with subsection (f). In the event the registration plate has expired, no new plate shall be issued until the motor vehicle owner complies with the reinstatement requirements as required by this act.

(h) Evidence that an owner of a motor vehicle, registered or required to be registered in this state, has operated or permitted such motor vehicle to be operated in this state without having in force and effect the financial security required by this act for such vehicle, together with proof of records of the division of vehicles indicating that the owner did not have such financial security, shall be prima facie evidence that the owner did at the time and place alleged, operate or permit such motor vehicle to be operated without having in full force and effect financial security required by the provisions of this act.

(i) Any owner of a motor vehicle registered or required to be registered in this state who shall make a false certification concerning financial security for the operation of such motor vehicle as required by this act, shall be guilty of a class A misdemeanor. Any person, firm or corporation giving false information to the director concerning another's financial security for the operation of a motor vehicle registered or required to

be registered in this state, knowing or having reason to believe that such information is false, shall be guilty of a class A misdemeanor.

(j) The director shall administer and enforce the provisions of this act relating to the registration of motor vehicles, and the secretary of revenue shall adopt such rules and regulations as may be necessary for its administration.

(k) Whenever any person has made application for insurance coverage and such applicant has submitted payment or partial payment with such application, the insurance company, if payment accompanied the application and if insurance coverage is denied, shall refund the unearned portion of the payment to the applicant or agent ~~with the notice of denial of coverage. Such refund may:~~

(1) Accompany the notice of denial of coverage; or

(2) be separately returned in not more than 10 days from the date of such notice.

If payment did not accompany the application to the insurance company but was made to the agent, the agent shall refund the unearned portion of the payment to the applicant upon receipt of the company's notice of denial.

(l) For the purpose of this act, "declination of insurance coverage" means a final denial, in whole or in part, by an insurance company or agent of requested insurance coverage.";

Also on page 4, in line 8, by striking all after "K.S.A."; in line 9, by striking all before "are" and inserting "2-224, 40-2a08, 40-2a14, 40-2a28, 40-2b07, 40-2b12 and 40-2b29 and K.S.A. 2013 Supp. 40-229a, 40-2a27, 40-2b28, 40-2c01, 40-3118, 75-4105 and 75-4109";

And by renumbering remaining sections accordingly;

On page 1, in the title, in line 1, by striking all after the semicolon; by striking all in lines 2 and 3; in line 4, by striking all before the period and inserting " pertaining to security deposits; pertaining to risk based capital requirements for certain insurers; pertaining to investments by insurance companies; pertaining to purchase of certain insurance coverage by the Kansas state fair; pertaining to the return of premiums separate from the notice of denial of coverage; amending K.S.A. 2-224, 40-2a08, 40-2a14, 40-2a28, 40-2b07, 40-2b12 and 40-2b29 and K.S.A. 2013 Supp. 40-229a, 40-2a27, 40-2b28, 40-2c01, 40-3118, 75-4105 and 75-4109 and repealing the existing sections"; and the bill be passed as amended.

Also, **HB 2312** be amended on page 1, by striking all in lines 6 through 36;

On page 2, by striking all in lines 1 through 15; following line 15, by inserting:

"Section 1. K.S.A. 2013 Supp. 12-1675 is hereby amended to read as follows: 12-1675. (a) The governing body of any county, city, township, school district, area vocational-technical school, community college, firemen's relief association, community mental health center, community facility for people with intellectual disability or any other governmental entity, unit or subdivision in the state of Kansas having authority to receive, hold and expend public moneys or funds may invest any moneys which are not immediately required for the purposes for which the moneys were collected or received, and the investment of which is not subject to or regulated by any other statute.

(b) Such moneys shall be invested only:

(1) In temporary notes or no-fund warrants issued by such investing governmental unit;

(2) in savings deposits, demand deposits, time deposit, open accounts, certificates

of deposit or time certificates of deposit with maturities of not more than two years: (A) In banks, savings and loan associations and savings banks, which have main or branch offices located in such investing governmental unit; or (B) if no main or branch office of a bank, savings and loan association or savings bank is located in such investing governmental unit, then in banks, savings and loan associations and savings banks, which have main or branch offices in the county or counties in which all or part of such investing governmental unit is located;

(3) in repurchase agreements with: (A) Banks, savings and loan associations and savings banks, which have main or branch offices located in such investing governmental unit, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or (B) (i) if no main or branch office of a bank, savings and loan association or savings bank, is located in such investing governmental unit; or (ii) if no such bank, savings and loan association or savings bank having a main or branch office located in such investing governmental unit is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks which have main or branch offices in the county or counties in which all or part of such investing governmental unit is located; or (C) if no bank, savings and loan association or savings bank, having a main or branch office in such county or counties is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks located within this state;

(4) ~~in United States treasury bills or notes~~ direct obligations of or obligations that are insured as to principal and interest by the United States or any agency thereof, not including mortgage-backed securities with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with banks, savings and loan associations and savings banks; the federal reserve bank of Kansas City, Missouri; or with primary government securities dealers which report to the market report division of the federal reserve bank of New York, or any broker-dealer engaged in the business of selling government securities which is registered in compliance with the requirements of section 15 or 15C of the securities exchange act of 1934 and registered pursuant to K.S.A. 17-12a401, and amendments thereto;

(5) in the municipal investment pool fund established in K.S.A. 12-1677a, and amendments thereto;

(6) in the investments authorized and in accordance with the conditions prescribed in K.S.A. 12-1677b, and amendments thereto;

(7) in multiple municipal client investment pools managed by the trust departments of banks which have main or branch offices located in the county or counties where such investing governmental unit is located or with trust companies incorporated under the laws of this state which have contracted to provide trust services under the provisions of K.S.A. 9-2107, and amendments thereto, with banks which have main or branch offices located in the county or counties in which such investing governmental

unit is located. Public moneys invested under this paragraph shall be secured in the same manner as provided for under K.S.A. 9-1402, and amendments thereto. Pooled investments of public moneys made by trust departments under this paragraph shall be subject to the same terms, conditions and limitations as are applicable to the municipal investment pool established by K.S.A. 12-1677a, and amendments thereto; or

(8) municipal bonds or other obligations issued by any municipality of the state of Kansas as defined in K.S.A. 10-1101, and amendments thereto, which are general obligations of the municipality issuing the same.

(c) The investments authorized in paragraphs (4), (5), (6), (7) or (8) of subsection (b) shall be utilized only if the banks, savings and loan associations and savings banks eligible for investments authorized in paragraph (2) of subsection (b), cannot or will not make the investments authorized in paragraph (2) of subsection (b) available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto.

(d) In selecting a depository pursuant to paragraph (2) of subsection (b), if a bank, savings and loan association or savings bank eligible for an investment deposit thereunder has an office located in the investing governmental unit and such financial institution will make such deposits available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and such financial institution otherwise qualifies for such deposit, the investing governmental unit shall select one or more of such eligible financial institutions for deposit of funds pursuant to this section. If no such financial institution qualifies for such deposits, the investing governmental unit may select for such deposits one or more eligible banks, savings and loan associations or savings banks which have offices in the county or counties in which all or a part of such investing governmental unit is located which will make such deposits available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and which otherwise qualify for such deposits.

(e) (1) All security purchases and repurchase agreements shall occur on a delivery versus payment basis.

(2) All securities, including those acquired by repurchase agreements, shall be perfected in the name of the investing governmental unit and shall be delivered to the purchaser or a third-party custodian which may be the state treasurer.

(f) Public moneys deposited pursuant to subsection (b)(2) of K.S.A. 12-1675, and amendments thereto, by the governing body of any governmental unit listed in subsection (a) of K.S.A. 12-1675, and amendments thereto, through a selected bank, savings and loan association or savings bank which is part of a reciprocal deposit program in which the bank, savings and loan association or savings bank:

(1) Receives reciprocal deposits from other participating institutions located in the United States in an amount equal to the amount of funds deposited by the municipal corporation or quasi-municipal corporation; and

(2) for which the total cumulative amount of each deposit does not exceed the maximum deposit insurance amount for one depositor at one financial institution as determined by the federal deposit insurance corporation.

Such deposits shall not be treated as securities and need not be secured as provided in this or any other act.";

Also on page 2, in line 16, by striking "2012 Supp. 40-2124" and inserting "2013 Supp. 12-1675";

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in line 2, and inserting "local governments; relating to the investment of idle funds; amending K.S.A. 2013 Supp. 12-1675"; and the bill be passed as amended.

HB 2515 be amended on page 1, by striking all in lines 6 through 36;

By striking all on pages 2 and 3;

On page 4, by striking all in lines 1 through 41 and inserting the following:

"Section 1. K.S.A. 65-407 is hereby amended to read as follows: 65-407. No such lien shall be effective unless a written notice ~~containing an itemized statement of all setting forth the amount of all of the hospital's claims, the name and address of the injured person, the date of the accident, and the name and location of the hospital, and the name of the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries received,~~ shall be filed in the office of the clerk of the district court of the county in which such hospital is located, prior to the payment of any moneys to such injured person, ~~his such person's~~ attorneys or legal representatives, as compensation for such injuries; ~~nor unless the hospital shall also send, by registered or certified mail, postage prepaid, a copy of such notice with a statement of the date of filing thereof to the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries sustained prior to the payment of any moneys to such injured person, his attorneys or legal representative, as compensation for such injuries. Such hospital shall mail a copy of such notice to any insurance carrier which has insured such person, firm or corporation against such liability, if the name and address shall be known. Such hospital shall also send, by registered or certified mail, a copy of such notice to such patient upon whom emergency medical or other service has been performed, if the name and address of such patient shall be known to the hospital or can with reasonable diligence be ascertained."~~

Also on page 4, in line 42, by striking "2013 Supp. 40-222" and inserting "65-407";

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2, by striking all before "and" and inserting "hospital liens; relating to notice and amount of claims; amending K.S.A. 65-407"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

State Bank Commissioner: K.S.A. 75-1304

Deryl Karlton Schuster, to serve at the pleasure of the Governor

Committee on **Judiciary** recommends **HB 2433**, as amended by House Committee of the Whole, be amended on page 2, in line 19 after the period by inserting "It shall not be a defense under this paragraph that the individual convicted did not know the age of the victim or reasonably believed that the victim was not an elder person."; and the bill be passed as amended.

Also, **HB 2444**, as amended by House Committee, be amended on page 1, in line 23, by striking "regard" and inserting "respect"; and the bill be passed as amended.

HB 2479, as amended by House Committee, be amended on page 2, in line 22, by striking "2020" and inserting "2018";

On page 3, in line 8, by striking "2020" and inserting "2018"; and the bill be passed as amended.

HB 2398, as amended by House Committee, be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

HB 2566 be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

HB 2684 be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

HCR 5029, as amended by House Committee, be adopted.

Committee on **Local Government** recommends **HB 2419** be amended on page 1, in line 16, by striking "also"; and the bill be passed as amended.

Committee on **Natural Resources** recommends **SB 412** be passed.

Also, **HB 2547** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

HB 2548 be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

HB 2549 be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Public Health and Welfare** recommends **HB 2146** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2146," as follows:

"Senate Substitute for HOUSE BILL NO. 2146

By Committee on Public Health and Welfare

"AN ACT concerning the board of pharmacy; relating to pharmacists, pharmacy technicians and pharmacist interns; amending K.S.A. 65-1626a, 65-1632 and 65-1644 and K.S.A. 2013 Supp. 65-1637b, 65-1643, 65-1645 and 65-1663 and repealing the existing sections.";

And the substitute bill be passed.

Also, **HB 2418** be amended on page 1, following line 5, by inserting:

"Section 1. K.S.A. 2013 Supp. 39-923 is hereby amended to read as follows: 39-923. (a) As used in this act:

(1) "Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility; all of which are classifications of adult care homes and are required to be licensed by the secretary of aging.

(2) "Nursing facility" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.

(3) "Nursing facility for mental health" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who,

due to functional impairments, need skilled nursing care and special mental health services to compensate for activities of daily living limitations.

(4) "Intermediate care facility for people with intellectual disability" means any place or facility operating 24 hours a day, seven days a week, caring for four or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments caused by intellectual disability or related conditions, need services to compensate for activities of daily living limitations.

(5) "Assisted living facility" means any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week, for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(6) "Residential health care facility" means any place or facility, or a contiguous portion of a place or facility, caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24-hour, seven-days-a-week basis for the support of resident independence. The provision of skilled nursing procedures to a resident in a residential health care facility is not prohibited by this act. Generally, the skilled services provided in a residential health care facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(7) "Home plus" means any residence or facility caring for not more than 12 individuals not related within the third degree of relationship to the operator or owner by blood or marriage unless the resident in need of care is approved for placement by the secretary of the department of social and rehabilitation services, and who, due to functional impairment, needs personal care and may need supervised nursing care to compensate for activities of daily living limitations. The level of care provided to residents shall be determined by preparation of the staff and rules and regulations developed by the department on aging. An adult care home may convert a portion of one wing of the facility to a not less than five-bed and not more than 12-bed home plus facility provided that the home plus facility remains separate from the adult care home, and each facility must remain contiguous. Any home plus that provides care for more than eight individuals after the effective date of this act shall adjust staffing personnel and resources as necessary to meet residents' needs in order to maintain the current level of nursing care standards. Personnel of any home plus who provide services for residents with dementia shall be required to take annual dementia care training.

(8) "Boarding care home" means any place or facility operating 24 hours a day, seven days a week, caring for not more than 10 individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of activities of daily living but who are ambulatory and essentially capable of managing their own care and affairs.

(9) "Adult day care" means any place or facility operating less than 24 hours a day caring for individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of or assistance with activities of daily living.

(10) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, and the term "place or facility" may include multiple buildings.

(11) "Skilled nursing care" means services performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel. Skilled nursing includes administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions which require substantial nursing judgment and skill based on the knowledge and application of scientific principles.

(12) "Supervised nursing care" means services provided by or under the guidance of a licensed nurse with initial direction for nursing procedures and periodic inspection of the actual act of accomplishing the procedures; administration of medications and treatments as prescribed by a licensed physician or dentist and assistance of residents with the performance of activities of daily living.

(13) "Resident" means all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.

(14) "Person" means any individual, firm, partnership, corporation, company, association or joint-stock association, and the legal successor thereof.

(15) "Operate an adult care home" means to own, lease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the word "own" and the word "lease" shall not include hospital districts, cities and counties which hold title to an adult care home purchased or constructed through the sale of bonds.

(16) "Licensing agency" means the secretary of aging.

(17) "Skilled nursing home" means a nursing facility.

(18) "Intermediate nursing care home" means a nursing facility.

(19) "Apartment" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, a kitchen, sleeping, living and storage area and a lockable door.

(20) "Individual living unit" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, sleeping, living and storage area and a lockable door.

(21) "Operator" means an individual registered pursuant to the operator registration act, section 2 et seq., and amendments thereto, who operates may be appointed by a licensee to have the authority and responsibility to oversee an assisted living facility or residential health care facility with fewer than 61 residents, a home plus or adult day care facility and has completed a course approved by the secretary of health and

~~environment on principles of assisted living and has successfully passed an examination approved by the secretary of health and environment on principles of assisted living and such other requirements as may be established by the secretary of health and environment by rules and regulations.~~

(22) "Activities of daily living" means those personal, functional activities required by an individual for continued well-being, including but not limited to eating, nutrition, dressing, personal hygiene, mobility and toileting.

(23) "Personal care" means care provided by staff to assist an individual with, or to perform activities of daily living.

(24) "Functional impairment" means an individual has experienced a decline in physical, mental and psychosocial well-being and as a result, is unable to compensate for the effects of the decline.

(25) "Kitchen" means a food preparation area that includes a sink, refrigerator and a microwave oven or stove.

(26) The term "intermediate personal care home" for purposes of those individuals applying for or receiving veterans' benefits means residential health care facility.

(27) "Paid nutrition assistant" means an individual who is paid to feed residents of an adult care home, or who is used under an arrangement with another agency or organization, who is trained by a person meeting nurse aide instructor qualifications as prescribed by 42 C.F.R. § 483.152, 42 C.F.R. § 483.160 and paragraph (h) of 42 C.F.R. § 483.35, and who provides such assistance under the supervision of a registered professional or licensed practical nurse.

(28) "Medicaid program" means the Kansas program of medical assistance for which federal or state moneys, or any combination thereof, are expended, or any successor federal or state, or both, health insurance program or waiver granted thereunder.

(29) "Licensee" means any person or persons acting jointly or severally who are licensed by the secretary for aging and disability services pursuant to the adult care home licensure act, K.S.A. 39-923 et seq., and amendments thereto.

(b) The term "adult care home" shall not include institutions operated by federal or state governments, except institutions operated by the Kansas commission on veterans affairs, hospitals or institutions for the treatment and care of psychiatric patients, child care facilities, maternity centers, hotels, offices of physicians or hospices which are certified to participate in the medicare program under 42 code of federal regulations, chapter IV, section 418.1 et seq., and amendments thereto, and which provide services only to hospice patients.

(c) Nursing facilities in existence on the effective date of this act changing licensure categories to become residential health care facilities shall be required to provide private bathing facilities in a minimum of 20% of the individual living units.

(d) Facilities licensed under the adult care home licensure act on the day immediately preceding the effective date of this act shall continue to be licensed facilities until the annual renewal date of such license and may renew such license in the appropriate licensure category under the adult care home licensure act subject to the payment of fees and other conditions and limitations of such act.

(e) Nursing facilities with less than 60 beds converting a portion of the facility to residential health care shall have the option of licensing for residential health care for less than six individuals but not less than 10% of the total bed count within a contiguous

portion of the facility.

(f) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services which shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

New Sec. 2. Sections 2 through 9, and amendments thereto, shall be known and may be cited as the operator registration act.

New Sec. 3. As used in the operator registration act:

(a) "Operator" means an individual registered pursuant to the operator registration act who may be appointed by a licensee to have authority and responsibility to oversee an adult care home.

(b) "Secretary" means the secretary for aging and disability services.

(c) "Department" means the Kansas department for aging and disability services.

(d) "Adult care home" means an assisted living facility or residential health care facility licensed for less than 61 residents, home plus or adult day care as defined by K.S.A. 39-923, and amendments thereto, or by the rules and regulations of the licensing agency adopted pursuant to such section for which a license is required under article 9 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto.

(e) "Licensee" shall have the meaning ascribed to such term in K.S.A. 39-923, and amendments thereto.

New Sec. 4. (a) On and after July 1, 2014, no person shall represent that such person is an operator unless such person is registered under the operator registration act as an operator. A violation of this subsection is a class C misdemeanor.

(b) The secretary shall adopt by rules and regulations a system for registering operators. Such rules and regulations shall include qualifications for registration. Such rules and regulations shall require, at a minimum, that the applicant:

(1) Be at least 21 years of age;

(2) (A) Possess a high school diploma or equivalent, with one year relevant experience as determined by the secretary;

(B) possess an associate's degree in a relevant field as determined by the secretary; or

(C) possess a baccalaureate degree;

(3) has successfully completed a course approved by the secretary on principles of assisted living;

(4) has passed an examination approved by the secretary on principles of assisted living and such other requirements as may be established by the secretary by rules and regulations;

(5) has filed an application; and

(6) has paid the required application fee.

New Sec. 5. On and after July 1, 2014, no adult care home shall be operated unless under the supervision of an operator who holds a valid registration as an operator issued pursuant to the operator registration act or an adult care home administrator who holds a valid license as a licensed adult care home administrator pursuant to K.S.A. 65-3501 et seq., and amendments thereto.

New Sec. 6. (a) Upon application and within two years of July 1, 2014, the secretary may waive the requirements of (b)(2) and (b)(6) of section 4, and amendments thereto, and grant a registration to any applicant so long as the applicant: (1) Has completed the operator course prior to July 1, 2014, that was approved by the secretary; and (2) has passed an examination prior to July 1, 2014, that was approved by the secretary.

(b) A person who has completed the operator course approved by the secretary and has passed an examination that was approved by the secretary prior to July 1, 2014, and does not apply within two years of July 1, 2014, shall be considered to have a registration that has lapsed for failure to renew.

New Sec. 7. (a) Every individual who holds a valid registration as an operator shall apply to the department for renewal of such registration in accordance with rules and regulations adopted by the secretary.

(b) Upon making an application for a renewal of registration, such individual shall pay a renewal fee to be fixed by rules and regulations and shall submit evidence satisfactory to the secretary that during the period immediately preceding application for renewal the applicant has completed continuing education requirements as provided by the rules and regulations. Any individual who submits an application for a renewal of registration within 30 days after the date of expiration shall also pay a late renewal fee fixed by rules and regulations. Any individual who submits an application for a renewal of registration after the 30-day period following the date of expiration shall be considered as having a registration that has lapsed for failure to renew and shall be reissued a registration only after the individual has been reinstated under subsection (d).

(c) The department shall issue a registration to an operator upon receipt of an application for renewal of registration, the renewal fee and the evidence required for approval.

(d) An operator who allows their registration to lapse by failing to renew may be reinstated upon payment of the renewal fee, the reinstatement fee and submission of evidence demonstrating satisfactory completion of any applicable program or a course of study established by the secretary for reinstatement of persons whose registrations have lapsed for failure to renew. The secretary shall adopt rules and regulations establishing appropriate requirements for reinstatement of persons whose registrations have lapsed for failure to renew.

(e) The expiration date of registrations issued or renewed shall be established by rules and regulations of the secretary. Subject to the provisions of this subsection, each registration shall be renewable on a biennial basis upon the filing of a renewal application prior to the expiration of an existing registration and upon payment of the renewal fee established pursuant to rules and regulations. To provide for a system of biennial renewal of registrations, the secretary may provide by rules and regulations that registrations issued or renewed for the first time after July 1, 2014, may expire less than two years from the date of issuance or renewal. In each case in which a registration is issued or renewed for a period of time less than two years, the secretary shall prorate to the nearest whole month the registration or renewal fee established pursuant to rules and regulations. No proration shall be made under this subsection on delinquent registration renewals.

New Sec. 8. All fees under the operator registration act shall be established by rules and regulations of the secretary. The amounts received for such fees shall be deposited

in the state treasury in accordance with K.S.A. 75-4215, and amendments thereto, and shall be credited to the state licensure fee fund administered by the department pursuant to K.S.A. 39-930, and amendments thereto.

New Sec. 9. (a) The secretary may deny, refuse to renew, suspend or revoke a registration where the operator or applicant:

(1) Has obtained, or attempted to obtain, a registration by means of fraud, misrepresentation or concealment of material facts;

(2) has a finding of abuse, neglect or exploitation against a resident of an adult care home as defined in K.S.A. 39-1401, and amendments thereto;

(3) has been convicted of a crime found by the secretary to have direct bearing on whether the registrant or applicant can be entrusted to serve the public in the position of an operator;

(4) has violated a lawful order or rule or regulation of the secretary;

(5) had disciplinary action taken against such operator on a professional or occupational healthcare credential issued by this state or by another jurisdiction; or

(6) has violated any provisions of the operator registration act.

(b) Such denial, refusal to renew, suspension or revocation of a registration may be ordered by the secretary after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act.

(c) A person whose registration has been revoked may apply to the secretary for reinstatement. The secretary shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. An applicant for reinstatement shall submit an application for reinstatement and a reinstatement fee established by the secretary and fulfill the requirements under subsection (d) of section 7, and amendments thereto.";

And by renumbering sections accordingly;

On page 3, in line 6, by striking "39-925 is" and inserting "39-923 and 39-925 are";

On page 1, in the title, in line 1, by striking all after "concerning"; on line 2, by striking "and regulations" and inserting "Kansas department for aging and disability services; relating to adult care homes"; also in line 2, after "Supp." by inserting "39-923 and"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Sub HB 2436 be amended on page 1, in line 27, by striking "pursuant to law" and inserting "by the applicable statutes and rules and regulations of both boards";

On page 2, in line 19, by striking "pursuant to law" and inserting "by the applicable statutes and rules and regulations of both boards"; and the bill be passed as amended.

HB 2509, as amended by House Committee, be amended on page 17, following line 1, by inserting:

"New Sec. 9. (a) (1) Except as provided in paragraph (2), whenever a municipality provides for the payment of premiums for any health benefit plan for its emergency personnel, it shall pay premiums for the continuation of coverage under COBRA for the surviving spouse and eligible dependent children under the age of 26 years of any emergency personnel who dies in the line of duty. Premiums for continuation of coverage under COBRA shall be paid for 18 months.

(2) A municipality may not be required to pay the premiums described in paragraph (1) for a surviving spouse:

(A) On or after the end of the 18th calendar month after the date of death of the

deceased emergency personnel;

(B) upon the remarriage of the deceased emergency personnel's surviving spouse;
or

(C) upon the deceased emergency personnel's surviving spouse reaching the age of 65.

(b) For the purposes of this section:

(1) "Emergency personnel" means an attendant as such term is defined in K.S.A. 65-6112, and amendments thereto.

(2) "Health benefit plan" shall have the meaning ascribed to it in K.S.A. 40-4602, and amendments thereto.

(3) "Municipality" means a city or county. ";

And by renumbering sections accordingly; and the bill be passed as amended.

HB 2673, as amended by House Committee of the Whole, be amended on page 44, following line 23, by inserting:

"Sec. 30. K.S.A. 2013 Supp. 65-2872 is hereby amended to read as follows: 65-2872. The practice of the healing arts shall not be construed to include the following persons:

(a) Persons rendering gratuitous services in the case of an emergency.

(b) Persons gratuitously administering ordinary household remedies.

(c) The members of any church practicing their religious tenets provided they shall not be exempt from complying with all public health regulations of the state.

(d) Students while in actual classroom attendance in an accredited healing arts school who after completing one year's study treat diseases under the supervision of a licensed instructor.

(e) Students upon the completion of at least three years study in an accredited healing arts school and who, as a part of their academic requirements for a degree, serve a preceptorship not to exceed 180 days under the supervision of a licensed practitioner.

(f) Persons who massage for the purpose of relaxation, muscle conditioning, or figure improvement, provided no drugs are used and such persons do not hold themselves out to be physicians or healers.

(g) Persons whose professional services are performed under the supervision or by order of or referral from a practitioner who is licensed under this act.

(h) Persons in the general fields of psychology, education and social work, dealing with the social, psychological and moral well-being of individuals ~~and/or~~ or groups, or both, provided they do not use drugs and do not hold themselves out to be the physicians, surgeons, osteopathic physicians or chiropractors.

(i) Practitioners of the healing arts in the United States army, navy, air force, public health service, and coast guard or other military service when acting in the line of duty in this state.

(j) Practitioners of the healing arts licensed in another state when and while incidentally called into this state in consultation with practitioners licensed in this state.

(k) Dentists practicing their professions, when licensed and practicing in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(l) Optometrists practicing their professions, when licensed and practicing under and in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes

Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(m) Nurses practicing their profession when licensed and practicing under and in accordance with the provisions of article 11 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(n) Podiatrists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(o) Every act or practice falling in the field of the healing art, not specifically excepted herein, shall constitute the practice thereof.

(p) Pharmacists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(q) A dentist licensed in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, who administers general and local anesthetics to facilitate medical procedures conducted by a person licensed to practice medicine and surgery if such dentist is certified by the board of healing arts under K.S.A. 65-2899, and amendments thereto, to administer such general and local anesthetics.

(r) Practitioners of the healing arts duly licensed under the laws of another state who do not open an office or maintain or appoint a place to regularly meet patients or to receive calls within this state, but who order services which are performed in this state in accordance with rules and regulations of the board. The board shall adopt rules and regulations identifying circumstances in which professional services may be performed in this state based upon an order by a practitioner of the healing arts licensed under the laws of another state.

(s) Persons licensed by the state board of cosmetology practicing their professions, when licensed and practicing under and in accordance with the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

Sec. 31. K.S.A. 65-2873 is hereby amended to read as follows: 65-2873. (a) Each applicant for a license by examination to practice any branch of the healing arts in this state shall:

(1) Present to the board evidence of proficiency in the basic sciences issued by the national board of medical examiners, the board of examiners of osteopathic physicians and surgeons or the national board of chiropractic examiners or such other examining body as may be approved by the board or in lieu thereof pass such examination as the board may require in the basic science subjects;

(2) present proof that the applicant is a graduate of an accredited healing arts school or college; and

(3) pass an examination prescribed and conducted by the board covering the subjects incident to the practice of the branch of healing art for which the applicant applies.

(b) Any person seeking a license to practice medicine and surgery shall present

proof that such person has completed acceptable postgraduate study as may be required by the board by regulations.

(c) The board may authorize an applicant who does not meet the requirements of paragraph (2) of subsection (a) to take the examination for licensure if the applicant:

- (1) Has completed three years of postgraduate training as approved by the board;
- (2) is a graduate of a school in which has been in operation for not less than 15 years and the graduates of which have been licensed in another state or states which has standards similar to Kansas; and
- (3) meets all other requirements for taking the examination for licensure of the Kansas healing arts act.

(d) In addition to the examination required under paragraph (3) of subsection (a), if the applicant is a foreign medical graduate the applicant shall pass an examination given by the educational commission for foreign medical graduates.

(e) No person licensed to practice and actively engaged in the practice of the healing arts shall attach to such person's name any title, or any word or abbreviation indicating that such person is a doctor of any branch of the healing arts other than the branch of the healing arts in which such person holds a license but shall attach to such person's name the degree or degrees to which such person is entitled by reason of such person's diploma.

Sec. 32. K.S.A. 65-2874 is hereby amended to read as follows: 65-2874. (a) An accredited school of medicine for the purpose of this act shall be a school or college which requires the study of medicine and surgery in all of its branches, which the board shall determine to have ~~a standard of education~~ educational standards substantially equivalent to the ~~university of Kansas school of medicine~~ minimum educational standards for medical colleges as established by the liaison committee on medical education or any successor organization that is the official accrediting body of educational programs leading to the degree of doctor of medicine and recognized for such purpose by the federal department of education and the council on postsecondary education. All such schools shall be approved by the board.

(b) The board shall adopt rules and regulations establishing the criteria which a school shall satisfy in meeting the standard established under subsection (a). The criteria shall establish the minimum standards in the following areas:

- (1) Admission requirements;
- (2) basic science coursework;
- (3) clinical coursework;
- (4) qualification of faculty;
- (5) ratio of faculty to students;
- (6) library;
- (7) clinical facilities;
- (8) ~~laboratories;~~
- (9) equipment;
- (10) ~~specimens;~~
- (11) ~~financial qualifications;~~
- (10) graduation requirements; and
- (12) ~~accreditation by independent agency.~~

(c) The board may send a questionnaire developed by the board to any school for which the board does not have sufficient information to determine whether the school

meets the requirements of this statute or rules and regulations adopted pursuant to this statute. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school to be considered for approval.

(d) The board is authorized to contract with investigative agencies, commissions or consultants to assist the board in obtaining information about schools. In entering such contracts the authority to approve schools shall remain solely with the board.

Sec. 33. K.S.A. 65-2875 is hereby amended to read as follows: 65-2875. An accredited school of osteopathic medicine for the purpose of this act shall be a school or college which requires the study of osteopathic medicine and surgery in all of its branches which the board shall determine to have ~~a standard of education not below that of the Kirksville college of osteopathy and surgery~~ educational standards substantially equivalent to the minimum educational standards for osteopathic colleges as established by the American osteopathic association or any successor organization that is the official accrediting body of educational programs leading to the degree of doctor of osteopathy. All such schools shall be approved by the board.

Sec. 34. K.S.A. 65-2885 is hereby amended to read as follows: 65-2885. No person licensed hereunder shall use a title in connection with ~~his such person's~~ name which in any way represents ~~him such person~~ as engaged in the practice of any branch of the healing arts for which ~~he such person~~ holds no license: ~~Provided, however, That every such~~ Every licensee, when using the letters or term "Dr." or "Doctor," shall use the appropriate words or letters to identify ~~himself such licensee~~ with the particular branch of the healing arts in which ~~he the licensee~~ holds a license.

Sec. 35. K.S.A. 65-2893 is hereby amended to read as follows: 65-2893. In any case of death wherein notification of the coroner is not required by K.S.A. ~~19-1031 22a-231~~, and amendments thereto, or any case in which the coroner does not elect to perform an autopsy, an autopsy may be performed upon the body of a deceased person by a physician or surgeon when so authorized, in writing by the decedent during his lifetime. Additionally, unless the physician or surgeon has knowledge that contrary directions have been given by the decedent, the following persons in the order of priority stated, may consent to the performance of an autopsy: ~~(1)(a)~~ (a) The spouse, if one survives and if not incapacitated. If no spouse survives or if the spouse is incapacitated;

~~(2)(b)~~ (b) an adult child;

~~(3)(c)~~ (c) either parent;

~~(4)(d)~~ (d) an adult brother or sister;

~~(5)(e)~~ (e) the guardian of the decedent at the time of his death;

~~(6)(f)~~ (f) any other person or agency authorized or under obligation to dispose of the body.

If there is no surviving spouse and an adult child is not immediately available at the time of death, the autopsy may be authorized by either parent; if a parent is not immediately available, it may be authorized by any adult brother or sister: ~~Provided, That~~ Such autopsy shall not be performed under a consent given as required by a member of the class listed in ~~(2), (3) or (4) above~~ subsection (b), (c) or (d), if, before such autopsy is performed, any member of the class shall object to the performance of such autopsy in writing to the physician or surgeon by whom the autopsy is to be performed.

Sec. 36. K.S.A. 2013 Supp. 65-2895 is hereby amended to read as follows: 65-2895. (a) There is hereby created an institutional license which may be issued by the

board to a person who:

(1) Is a graduate of an accredited school of medicine or osteopathic medicine or a school which ~~has been in operation for not less than 15 years and the graduates of which~~ have been licensed in another state or states which have standards similar to Kansas;

(2) has completed at least two years in a postgraduate training program in the United States approved by the board; and

(3) who is employed as provided in this section.

(b) Subject to the restrictions of this section, the institutional license shall confer upon the holder the right and privilege to practice medicine and surgery and shall obligate the holder to comply with all requirements of such license.

(c) The practice privileges of institutional license holders are restricted and shall be valid only during the period in which:

(1) The holder is employed by any institution within the ~~department of social and rehabilitation~~ Kansas department for aging and disability services, employed by any institution within the department of corrections or employed pursuant to a contract entered into by the ~~department of social and rehabilitation~~ Kansas department for aging and disability services or the department of corrections with a third party, and only within the institution to which the holder is assigned; and

(2) the holder has been employed for at least three years as described in subsection (c)(1) and is employed to provide mental health services in Kansas in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency, or other political subdivision, or a contractor of a federal, state, county or municipal agency, or other political subdivision, or a duly chartered educational institution, or a medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto, in a psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto, or a contractor of such educational institution, medical care facility or psychiatric hospital, and whose practice, in any such employment, is limited to providing mental health services, is a part of the duties of such licensee's paid position and is performed solely on behalf of the employer; ~~or~~

~~(3) the holder has been employed for at least three years as described in subsection (c)(1) and is providing mental health services pursuant to a written protocol with a person who holds a license to practice medicine and surgery other than an institutional license.~~

(d) An institutional license shall expire on the date established by rules and regulations of the board which may provide for renewal throughout the year on a continuing basis. In each case in which an institutional license is renewed for a period of time of more or less than 12 months, the board may prorate the amount of the fee established under K.S.A. 65-2852, and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid not later than the expiration date of the license. An institutional license shall be valid for a period of two years after the date of issuance and may be renewed for an additional two-year periods one-year period if the applicant for renewal meets the requirements under subsection (c) ~~of this section~~, has submitted an application for renewal on a form provided by the board, has paid the renewal fee established by rules and regulations of the board of not to exceed \$500 and has submitted evidence of satisfactory completion of a program of continuing education

required by the board. In addition, an applicant for renewal who is employed as described in subsection (c)(1) shall submit with the application for renewal a recommendation that the institutional license be renewed signed by the superintendent of the institution to which the institutional license holder is assigned.

(e) Nothing in this section shall prohibit any person who was issued an institutional license prior to the effective date of this act from having the institutional license reinstated by the board if the person meets the requirements for an institutional license described in subsection (a).

(f) This section shall be a part of and supplemental to the Kansas healing arts act.

Sec. 37. K.S.A. 65-2898 is hereby amended to read as follows: 65-2898. (a) No person reporting to the state board of healing arts in good faith any information such person may have relating to alleged incidents of malpractice, or the qualifications, fitness or character of, or disciplinary action taken against, a person licensed, registered or certified by the board shall be subject to a civil action for damages as a result of reporting such information.

(b) Any state, regional or local association composed of persons licensed to practice a ~~branch of the healing arts profession regulated by the board~~ and the individual members of any committee thereof, which in good faith investigates or communicates information pertaining to the alleged incidents of malpractice, or the qualifications, fitness or character of, or disciplinary action taken against, any licensee, registrant or certificate holder to the state board of healing arts or to any committee or agent thereof, shall be immune from liability in any civil action, that is based upon such investigation or transmittal of information if the investigation and communication was made in good faith and did not represent as true any matter not reasonably believed to be true.

Sec. 38. K.S.A. 65-28,122 is hereby amended to read as follows: 65-28,122. (a) Subject to the provisions of subsection (c) of K.S.A. 65-4923, and amendments thereto, any person licensed ~~to practice the healing arts, registered or certified to practice any profession regulated by the board~~ who possesses knowledge not subject to the physician-patient privilege that another person so licensed, registered or certified has committed any act enumerated under ~~K.S.A. 65-2836 and amendments thereto~~ any practice act administered by the board which may be a ground for disciplinary action ~~pursuant to K.S.A. 65-2836 and amendments thereto~~ shall immediately report such knowledge, under oath, to the state board of healing arts. A person licensed ~~to practice the healing arts, registered or certified to practice any profession regulated by the board~~ who possesses such knowledge shall reveal fully such knowledge upon official request of the state board of healing arts.

(b) As used in subsection (a), "knowledge" means familiarity because of direct involvement or observation of the incident.

(c) The provisions of subsection (a) shall not apply to any person licensed, registered or certified to practice any profession regulated by the board who is acting solely as a consultant or providing a review at the request of any person or party.

(d) This section shall be part of and supplemental to the Kansas healing arts act.

Sec. 39. K.S.A. 65-28,126 is hereby amended to read as follows: 65-28,126. (a) It shall be the duty of each licensee to notify the state board of healing arts in writing within 30 days of any changes in the licensee's mailing address and practice addresses.

(b) A penalty in the amount not to exceed \$100 for the first violation of subsection

(a) and \$150 for each subsequent violation of subsection (a) may be assessed by the state board of healing arts under the provisions of K.S.A. 65-2863a, and amendments thereto.

(c) This section shall be part of and supplemental to the Kansas healing arts act.

Sec. 40. K.S.A. 2013 Supp. 65-28,127 is hereby amended to read as follows: 65-28,127. (a) Every supervising or responsible licensee who directs, supervises, orders, refers, accepts responsibility for, enters into written agreements or practice protocols with, or who delegates acts which constitute the practice of the healing arts to other persons shall:

- (1) Be actively engaged in the practice of the healing arts in Kansas;
- (2) review and keep current any required written agreements or practice protocols between the supervising or responsible licensee and such persons, as may be determined by the board;
- (3) direct, supervise, order, refer, enter into a written agreement or practice protocol with, or delegate to such persons only those acts and functions which the supervising or responsible licensee knows or has reason to believe can be competently performed by such person and is not in violation of any other statute or regulation;
- (4) direct, supervise, order, refer, enter into a written agreement or practice protocol with, or delegate to other persons only those acts and functions which are within the normal and customary specialty, competence and lawful practice of the supervising or responsible licensee;
- (5) provide for a qualified, substitute licensee who accepts responsibility for the direction, supervision, delegation and written agreements or practice protocols with such persons when the supervising or responsible licensee is temporarily absent; and
- (6) comply with all rules and regulations of the board establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.

(b) "Responsible licensee" means a person licensed by the state board of healing arts to practice medicine and surgery or chiropractic who has accepted responsibility for the actions of persons who perform acts pursuant to written agreements or practice protocols with, or at the order of, or referral, direction, supervision or delegation from such responsible licensee.

(c) Except as otherwise provided by rules and regulations of the board implementing this section, the physician assistant licensure act shall govern the direction and supervision of physician assistants by persons licensed by the state board of healing arts to practice medicine and surgery.

(d) Nothing in subsection (a)(4) shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing anesthesia care by a registered nurse anesthetist pursuant to K.S.A. 65-1158, and amendments thereto.

(e) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing physical therapy services pursuant to K.S.A. 65-2901 et seq., and amendments thereto.

(f) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from entering into a co-management relationship with an optometrist pursuant to K.S.A. 65-1501 et seq., and amendments thereto.

(g) The board may adopt rules and regulations establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and

surgery.

(h) As used in this section, "supervising physician" means a physician who has accepted continuous and ultimate responsibility for the medical services rendered and actions of the physician assistant while performing under the direction and supervision of the supervising physician.

(i) This section shall be part of and supplemental to the Kansas healing arts act.

Sec. 41. K.S.A. 2013 Supp. 65-28,132 is hereby amended to read as follows: 65-28,132. (a) For the purpose of paying for storage, maintenance and transfer of medical records by the board of healing arts, there is hereby established the medical record maintenance trust fund. All payments and disbursements from the medical records maintenance trust fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director of the board or by any person designated by the board.

(b) The board may certify to the director of accounts and reports that a specific amount, but not more than \$10, of each fee for the issuance or renewal of a license be credited to the medical records maintenance trust fund until such time the balance exceeds \$100,000. At any time the balance in the medical records trust fund falls below \$100,000, the board shall certify again to the director of accounts and reports that a specific amount, but not to exceed \$10, of each fee for the issuance or renewal of a license be deposited in the state treasury and credited to the medical records maintenance trust fund. The board may order a licensee to reimburse the amount of expenses incurred by the board in a case when such licensee failed to designate a custodian or provide for the storage, maintenance, transfer and access to such licensee's medical records upon becoming inactive. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the medical records maintenance trust fund. All funds deposited and credited to the medical records maintenance fund shall be expended for the purposes set forth in this section.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the medical records maintenance trust fund interest earnings based on: (1) The average daily balance of moneys in the medical records maintenance trust fund for the preceding month; and (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) The board of healing arts shall adopt rules and regulations establishing the procedures and standards necessary to implement the provisions of this section within one year of the effective date of this section.

(e) This section shall be part of and supplemental to the Kansas healing arts act."; And by renumbering sections accordingly;

On page 67, in line 19, after "2866," by inserting "65-2873, 65-2874, 65-2875, 65-2877, 65-2885, 65-2893, 65-2898, 65-28,122, 65-28,126,."; in line 22, after "65-2867," by inserting "65-2872, 65-2895, 65-28,127, 65-28,132,,";

On page 1, in the title, in line 5, after "2866," by inserting "65-2873, 65-2874, 65-2875, 65-2885, 65-2893, 65-2898, 65-28,122, 65-28,126,."; in line 8, after "65-2867," by inserting "65-2872, 65-2895, 65-28,127, 65-28,132,."; in line 9, after the second "repealing" by inserting "K.S.A. 65-2877 and"; and the bill be passed as amended.

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On motion of Senator Bruce, the Senate recessed until the sound of the gavel.

The Senate met pursuant to recess with President Wagle in the Chair.

On motion of Senator Bruce, the Senate adjourned until 8:00 a.m., Friday, March 21, 2014.

ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.
COREY CARNAHAN, *Secretary of the Senate*.

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