

# Journal of the Senate

FIFTY-THIRD DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Thursday, April 4, 2019, 10:00 a.m.

The Senate was called to order by President Susan Wagle.

The roll was called with 40 senators present.

The President introduced guest Chaplain, Reverend Keith Philips, First Presbyterian Church, Salina and guest of Senator Hardy, to deliver the invocation:

God, our Creator, our Redeemer and our Sustainer, Your glory shines throughout the world. We commend to Your merciful care our nation, our state and our communities, that we may live securely in peace and may be guided by Your providence. Give all in authority the wisdom and strength to know Your will and to do it. This day and every day, help our leaders remember that they are called to serve the people as lovers of truth and justice.

Almighty God, keep Kansas under Your care. Help the citizens of our state to contribute to wise decisions for the general welfare and thus serve You faithfully in our generation. Amen.

The Pledge of Allegiance was led by President Wagle.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 237**, AN ACT concerning roads and highways; designating a portion of K-16 as the John Lee Bremer memorial highway, by Committee on Assessment and Taxation.

**SB 238**, AN ACT concerning taxation; relating to privilege tax; banks, trust companies and savings and loan associations; deduction of interest received from certain business loans; amending K.S.A. 79-1109 and repealing the existing section, by Committee on Assessment and Taxation.

**SB 239**, AN ACT concerning taxation; relating to certain state credit unions; imposing a tax for the privilege of doing business; rates; definitions; interest income received from business loans, by Committee on Assessment and Taxation.

**SB 240**, AN ACT concerning the Kansas expanded lottery act; relating to racetrack gaming facilities; relating to parimutuel racing of horses; amending K.S.A. 74-8741, 74-8744, 74-8746, 74-8747 and 74-8836 and repealing the existing sections, by Committee on Federal and State Affairs.

**SCR 1611**, A CONCURRENT RESOLUTION urging the United States Census Bureau to conduct a complete and thorough 2020 census by collecting data on residency and citizenship, by Senators Tyson, Alley, Braun, Goddard, Hilderbrand, Kerschen, Lynn, Masterson, Olson, Pilcher-Cook, Rucker, Suellentrop and Wagle.

**MESSAGE FROM THE HOUSE**

The House adopts the Conference Committee report on **SB 130**.

The House announced the appointment of Representatives Tarwater, Corbet and Frownfelter as conferees on **HB 2223**.

The House adopts the Conference Committee report to agree to disagree on **HB 2209** and appoints Representatives Vickrey, Cox and Neighbors as second conferees on the part of the House.

The House adopts the Conference Committee report to agree to disagree on **SB 63** and appoints Representatives Proehl, Thimesch and Helgerson as second conferees on the part of the House.

**CONFERENCE COMMITTEE REPORT**

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 63** submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

And your committee on conference recommends the adoption of this report.

RICHARD PROEHL  
 JACK THIMESCH  
 HENRY HELGERSON  
*Conferees on part of House*

MIKE PETERSEN  
 DAN GODDARD  
 PAT PETTEY  
*Conferees on part of Senate*

On motion of Senator Petersen the Senate adopted the conference committee report on **SB 63**, and requested a new conference be appointed.

The President appointed Senators Petersen, Goddard and Pettey as a second Conference Committee on the part of the Senate on **SB 63**.

On motion of Senator Denning, the Senate recessed until 2:00 p.m.

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The Senate met pursuant to recess with Vice President Jeff Longbine in the chair.

**MESSAGE FROM THE HOUSE**

The House nonconcurrs in Senate amendments to **HB 2033**, requests a conference and has appointed Representatives Johnson, Mason and Gartner as conferees on the part of the House.

The House concurs in Senate amendments to **HB 2070**.

The House concurs in Senate amendments to **HB 2084**.

The House concurs in Senate amendments to **HB 2103**.

The House concurs in Senate amendments to **HB 2085**, and requests return of the bill.

The House concurs in Senate amendments to **HB 2144**, and requests return of the bill.

**ORIGINAL MOTION**

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **HB 2033**.

The Vice President appointed Senators Tyson, Kerschen and Holland as conferees on the part of the Senate.

**CHANGE OF CONFERENCE**

The Vice President appointed Senators Suellentrop, Berger, and Bollier to replace Senators Olson, Billinger, and Ware as members of the conference committee on **SB 67**.

**INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS**

Senator Faust-Goudeau introduced the following Senate resolution, which was read:  
SENATE RESOLUTION No. 1737—

A RESOLUTION honoring the men of the Kansas Prince Hall Shriners Temple and the women of its auxiliary, the Imperial Court.

WHEREAS, On June 3, 1893, Prince Hall Masons established the first temple of the Ancient Egyptian Arabic Order Nobles Mystic Shrine of North and South America and its Jurisdiction, Inc.; and

WHEREAS, This organization soon became known as Prince Hall Shriners: a charitable, benevolent, fraternal and social organization. Members of the organization are proudly given the title of "Nobles"; and

WHEREAS, Today, there are 224 temples and more than 25,000 members throughout the world. These men wear the recognizable symbol of a red fez hat; and

WHEREAS, Prince Hall Shriners volunteer and provide considerable grants to worthy charities, including the National Association for the Advancement of Colored People, the Legal Defense Fund, the Urban League and the United Negro College Fund, with other grants to institutions of higher learning and hospitals; and

WHEREAS, Kansas is home to the following temples: Emith Temple #30, Koran Temple #33, Fayum Temple #209 and Oasis Temple #29; and

WHEREAS, On August 24, 1910, The Imperial Court, a female auxiliary of Prince Hall Shriner temples, was established to unite female relatives of the members; and

WHEREAS, The members of the Imperial Court are proudly given the title of "Daughters" and are organized as local courts to accompany each local Shriner temple. Today, there are more than 95,000 Daughters across the world. These women wear the recognizable symbol of a white fez hat; and

WHEREAS, The Imperial Court stresses the development of leaders, encourages health awareness, provides services to disabled and senior citizens, recognizes and celebrates achievements of African-American women and promotes educational opportunities and career planning for youth and young adults; and

WHEREAS, Kansas is home to the following courts: Emith Court #18, Koran Court #37, Fayum Court #192 and Oasis Court #44; and

WHEREAS, The objective of these courts is to unite the mothers, wives, sisters and daughters of Shriners in one common body of friendship, to practice charity and benevolence, to promote general welfare and to inculcate honor and integrity; and

WHEREAS, Members of Prince Hall Shriners and the Imperial Court deserve formal recognition for their long history of charitable relief, education and high moral standards: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we honor the men of the Kansas Prince Hall Shriners Temple and the women of its auxiliary, the Imperial Court; and

*Be it further resolved:* That the Secretary of the Senate shall send enrolled copies of this resolution to Joe H. Barner Sr., Annie L. Long, Pearlle Mitchell and Senator Faust-Goudeau.

On emergency motion of Senator Faust-Goudeau **SR 1737** was adopted unanimously.

Senator Faust-Goudeau introduced the following Senate resolution, which was read:  
SENATE RESOLUTION No. 1738—

A RESOLUTION honoring the men of the Prince Hall Grand Lodge of Kansas and the women of its auxiliary, the Eastern Stars of the Kansas Prince Hall Grand Chapter.

WHEREAS, In March 1775, Prince Hall and other men of color were initiated into the fraternal order of Freemasonry in Boston, Massachusetts, before the lodge disbanded for the American Revolutionary War; and

WHEREAS, In September 1784, Prince Hall and the initiated men were granted a charter for their own lodge, designated as African Lodge #459, making it the first lodge for men of color; and

WHEREAS, There are now more than 5,000 lodges and 47 grand lodges that trace their lineage to the Prince Hall Grand Lodge; and

WHEREAS, The Most Worshipful Prince Hall Grand Lodge of Kansas, Free and Accepted Masons, was established in March 1875 and is rooted in honor, respect and humility. The Lodge's mission is to encourage and support the advancement of the Masonry; and

WHEREAS, Kansas Masons abide by the Masonic values of the supremacy of God, family, involvement in religion and community, brotherly love, relief and truth, honesty, integrity and morality; and

WHEREAS, The Order of the Eastern Stars was formally organized in 1850 as a female auxiliary of Masonic Temples to unite female relatives of Masons; and

WHEREAS, The members of the female auxiliary are proudly given the title of "Eastern Stars." There are now more than 5,000 chapters and more than 500,000 members across the world; and

WHEREAS, The first Kansas chapter was established in December 1875, and the organization has since served local communities in many ways, including offering scholarships, collecting and donating food and school supplies to families in need, providing support to charities and sponsoring youth organizations; and

WHEREAS, Members of the Kansas Prince Hall Grand Lodge and the Kansas Order of the Eastern Stars, both individually and as organizations, continue to make invaluable charitable contributions of service to the state of Kansas and are deserving of formal recognition for their long history of charitable relief, education and high moral standards: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we honor the men of the

Prince Hall Grand Lodge of Kansas and the women of its auxiliary, the Eastern Stars of the Kansas Prince Hall Grand Chapter; and

*Be it further resolved:* That the Secretary of the Senate shall send enrolled copies of this resolution to Wilbur J. Brown, Eddie J. Waller and Senator Faust-Goudeau.

On emergency motion of Senator Faust-Goudeau **SR 1738** was adopted unanimously.

Guests recognized were Hon. Wilbur J. Brown, Most Worshipful Grand Master; Joe H. Barner, Sr., Imperial Deputy of the Desert of Kansas; Sis. Eddie J. Waller, Grand Worthy Matron; Dt. Annie L. Long, Imperial Deputy for the Desert of Kansas; Bro. Terry Winbush, Sr., Right Worshipful Deputy Grand Master; Sis. Crystal E. Brown, Associate Grand Matron; Bro. George M. McCain, Jr., Grand Worthy Patron; Jesse L. Hill, Jr., Imperial Deputy of the Oasis of Wichita; Dt. Pearlle L. Mitchell, the Illustrious Commandress of Emith Court #18; Dt. Zetta M. Sims, Imperial Deputy for the Oasis of Wichita; Chad M. R. Thomas, the Illustrious Potentate of Emith Temple #30; Theodore R. Mitchell, Advisor to the Daughters/Past Potentate; James S. Webb, Advisor to the Daughters/Past Potentate; and Dt. Rosie L. Webb, Imperial Directress-Past Commandress Exaltation.

#### **POINT OF PERSONAL PRIVILEGE**

Senator Haley rose on a Point of Personal Privilege to deliver remarks on the Occasion of the Anniversary Date of the Assassination of the Reverend Doctor Martin Luther King, Junior, the following Remarks were offered: Today, April 4th, 2019 marks fifty-one (51) years to the day that a single rifle shot emanated from a depraved and racist would-be assassin. Now the bullet struck and, indeed, DID take the mortal life of the Rev. Dr. Martin Luther King, Jr. as he stood with several of his associates on a balcony of the Lorraine Hotel in Memphis, Tennessee. Where were you; what were you doing, what did you feel if you were old enough to appreciate it, when you heard that King had been shot and killed...? Gentle colleagues, I remember exactly, as a boy of ten or so, how badly frightening and confused I was watching my mother, Doris, a high school teacher, pace around at the end of our house phone's short knotted tether in my family's Kansas City, KS kitchen; intermittently shocked, crying, worried, agitated like I had never seen her before as she received and dissected the news. My dad, George, a once Kansas Senator and local attorney, who had been a classmate of Martin Luther King's at Morehouse College in Atlanta, GA. wasn't home yet so my younger, and only sibling, Anne, (now a wife and mother and respected LA attorney herself), my mother and I were only three-quarters of our family "team" together to contemplate the social strife that was ensuing. Some felt the dream of civil rights for all people, the dignity that should be the birthright inured to every American; life, liberty and the pursuit of happiness irrespective of race, religion, color, creed, gender...that many, many had fought for would surely too die. But thank God the dream DIDN'T die with "the dreamer" that day, fellow Senators. Today fifty-one (51) years later, we know that civil and equal rights and race and cultural relations are, sadly, yet deplorably juxtaposed; that we, as such a naturally diverse society in this country have a long way to go to reach neutrality and acceptance. May God continue to bless the true patriots of that which makes America strong and great; the intertwining of our many peoples to salute our unique worldly culture and ability. Despite an oft ebb to the contrary of progress, we must ever continue to stand and remember the cultivators like Dr. King who motivate and insure that one dream will not die with but one great dreamer.

### CONFERENCE COMMITTEE REPORTS

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **Sub SB 130** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee amendments, as follows:

On page 3, following line 16, by inserting:

"Sec. 3. K.S.A. 2018 Supp. 25-21a03 is hereby amended to read as follows: 25-21a03. (a) The secretary of state shall develop the style and form of the official primary ballot and the official general election ballot for municipal offices.

(b) The declaration of intent to become a candidate shall be prescribed by the secretary of state. The declarations for any municipality shall be filed with the county election officer not later than 12 noon, June 1, prior to the primary election in both even-numbered and odd-numbered years, or if such date falls on a Saturday, Sunday or holiday, then before 12 noon of the next day that is not a Saturday, Sunday or holiday.

~~(c) For municipalities where a primary election is not authorized or otherwise required by law, the declaration of intent to become a candidate shall be filed with the county election officer not later than 12 noon, September 1, prior to the general election in odd-numbered years, or if such date falls on a Saturday, Sunday or holiday, then before 12 noon of the next day that is not a Saturday, Sunday or holiday.~~

~~(d)~~—The secretary of state shall establish primary election procedures for primary elections for municipalities.

~~(e)(d)~~ The secretary of state shall establish general election procedures for general elections for municipalities.

~~(f)(e)~~ County election officers shall conduct municipal elections in odd-numbered years and elections in even-numbered years if needed.

~~(g)(f)~~ The secretary of state shall adopt rules and regulations to implement this section on or before July 1, 2016.

Sec. 4. K.S.A. 80-202 is hereby amended to read as follows: 80-202. Every person elected to the office of trustee, clerk or treasurer of any township, or road overseer of any road district, shall be an elector of ~~said the~~ township or road district at the time of ~~his or her~~ such election or appointment, and shall ~~within twenty (20) days after he shall be notified of his or her election take and subscribe the oath of office prescribed by law; and shall forthwith cause such~~ The oath to shall be filed in the office of the county clerk ~~of his or her county; and~~. In ~~case the event~~ any ~~of such officers~~ officer shall become ~~nonresidents~~ a nonresident of ~~their respective townships~~ the township or road ~~districts, their offices~~ district. ~~the office shall at once become vacant.~~

Sec. 5. K.S.A. 72-1073 is hereby amended to read as follows: 72-1073. The provisions of law relating to the term of office of members of boards of education, including method and time of qualification and of taking office shall apply to every school district in this state. In the event no candidate is elected to a position on the board of education of a school district in a regular election, or if an elected member moves out of the school district after such member is elected and before such member takes office the second Monday in January following ~~July 1~~ the election, or if such member becomes ineligible to serve for any other reason during that period of time, the holdover member shall continue to sit as a voting member of the board of education of such school district until an eligible successor is appointed by the board of education to

fill the position. ~~Such successor shall be appointed not later than November 15 next following the regular election of board members.~~

Sec. 6. K.S.A. 72-1133 is hereby amended to read as follows: 72-1133. (a) At the first meeting of the board of education ~~in July~~ on or after the second Monday in January of each year, ~~or at a later meeting during that calendar year if so determined by the board at the first meeting,~~ the board shall elect a president and vice-president, both of whom shall be members of the board. The president and vice-president shall each serve for a term of one-(1) year and until ~~his~~ a successor is elected and qualified.

(b) The president shall preside at meetings of the board and perform such other duties as are provided by law.

(c) In the absence or inability to act of the president, the vice-president shall perform the duties of the president. In the absence or inability to act of both the president and vice-president, the remaining members shall select a member to act in the capacity of president.

Sec. 7. K.S.A. 72-1138 is hereby amended to read as follows: 72-1138. (a) The board shall meet at least once each month. ~~During the month of July~~ On or after the second Monday in January and before February 1 of each year, ~~or at a later date during that calendar year if so determined by the board at the first meeting of the board on or after the second Monday in January of each year,~~ the board shall adopt a resolution specifying a regular meeting time of the board and the regular hour of commencement of the meeting, as well as the day of the week and the week of the month. Such resolution also shall specify the alternative date and time of any meeting if the regular meeting date occurs on a Sunday or on a legal holiday or on a holiday specified by the board. Such resolution also shall specify the regular meeting place of the board and may specify that any regular meeting may be adjourned to another time and place. If the board cancels a regularly scheduled meeting because of an emergency, within 24 hours of such cancellation, the board shall establish and give notice of the new meeting date and time. Special meetings may be called at any time by the president of the board or by joint action of any three members of the board. Unless waived, written notice, stating the time and place of any special meeting and the purpose for which called, shall be given each member of the board at least two days in advance of the special meeting and no business other than that stated in the notice shall be transacted at such meeting. A majority of the full membership of the board shall constitute a quorum for the purpose of conducting any business of the school district, and the vote of a majority of the full membership of the board shall be required for the passage of any motion or resolution. Any member who abstains from voting shall be counted as having voted against the motion or resolution. If a member announces a conflict of interest with regard to the issue, the member may leave the meeting until the voting on the issue is concluded, and the member who abstains from voting thereby shall not be counted as having voted.

(b) Except as otherwise provided by law, the board shall have and may exercise the same powers and authorities as were immediately prior to this act conferred uniformly upon boards of education in cities of the first class, and, in addition thereto, the powers and authority expressly conferred by law.

(c) The board shall have authority to prescribe courses of study for each year of the school program and to adopt rules and regulations for teaching in the school district and general government thereof, and to approve and adopt suitable textbooks and study material for use therein subject to the plans, methods, rules and regulations of the state

board of education.

(d) The board may provide legal counsel at district expense to any members of the board of education, or school district officers or employees who are sued in situations relating to and arising out of the performance of their office or employment. No teacher or other employment contract shall make reference to or incorporate the provisions of this subsection, nor shall the provisions of this subsection be construed as to be any part of the consideration of employment of any teacher, officer or other employee of the board.

(e) (1) The board may transact all school district business and adopt policies that the board deems appropriate to perform its constitutional duty to maintain, develop and operate local public schools.

(2) The power granted by this subsection shall not be construed to relieve a board from compliance with state law.

The power granted by this subsection shall not be construed to relieve any other unit of government of its duties and responsibilities ~~which that~~ are prescribed by law, nor to create any responsibility on the part of a school district to assume the duties or responsibilities ~~which that~~ are required of another unit of government.

(3) The board shall exercise the power granted by this subsection by resolution of the board of education.

Sec. 8. K.S.A. 72-1088 is hereby amended to read as follows: 72-1088. The issue of the change of method of election or voting plan, or both, in any school district may be made in the manner provided in this act at any time during the period beginning on the first Wednesday in November of each even-numbered year and ending on the first Tuesday in June of each odd-numbered year, if such change is also approved in a manner authorized in this act before the end of such period submitted to voters at any primary election or general election as defined in K.S.A. 25-2502, and amendments thereto, or at a special election called for such purpose. If approved by voters, the new method of election and voting plan in such the school district shall be followed in the election of members next following such the change and shall continue in force until again changed in the manner provided in this act. Change of method of election or voting plan shall not shorten the term of any member serving on the board at the time the change is made, and the county election officer shall not submit to election any plan of change which violates this prohibition.

Also on page 3, in line 17, before "K.S.A." by inserting "K.S.A. 72-1073, 72-1088, 72-1133, 72-1138, and 80-202 and"; also in line 17, before "and" by inserting ", 25-21a03"; in line 20, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the first "concerning" by inserting "municipal"; also in line 1, after "elections" by inserting "and election related matters"; also in line 1, by striking all after the first semicolon; in line 2, by striking all before "amending"; also in line 2, after "amending" by inserting "K.S.A. 72-1073, 72-1088, 72-1133, 72-1138 and 80-202 and"; also in line 2, after "25-1124" by inserting ", 25-21a03";

And your committee on conference recommends the adoption of this report.

WILLIAM SUTTON  
BLAKE CARPENTER  
BRETT PARKER

*Conferees on part of House*



ELAINE BOWERS  
 RANDALL HARDY  
 DAVID HALEY

*Conferees on part of Senate*

Senator Bowers moved the Senate adopt the Conference Committee Report on **Sub SB 130**.

On roll call, the vote was: Yeas 38; Nays 1; Present and Passing 1; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Petersen, Pettey, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Ware, Wilborn.

Nays: Pilcher-Cook.

Present and Passing: Olson.

The Conference Committee Report was adopted.

#### CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MADAM PRESIDENT: Your committee on conference on Senate amendments to **S Sub HB 2007** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee of the Whole amendments, as follows:

On page 2, in line 36, before "partly" by inserting "solely or"; in line 43, before "partly" by inserting "solely or";

On page 3, in line 3, after "financed" by inserting "solely or"; in line 18, before "partly" by inserting "solely or";

On page 4, in line 11, before "partly" by inserting "solely or"; in line 19, before "partly" by inserting "solely or"; in line 41, by striking "and"; in line 43, after "feasibility" by inserting "; and

(F) at least one local public meeting to review the project during the feasibility study process";

And your committee on conference recommends the adoption of this report.

MIKE PETERSEN  
 DAN GODDARD  
 PAT PETTEY

*Conferees on part of Senate*

RICHARD PROEHL  
 JACK THIMISCH  
 HENRY HELGERSON

*Conferees on part of House*

Senator Petersen moved the Senate adopt the Conference Committee Report on **S Sub HB 2007**.

On roll call, the vote was: Yeas 39; Nays 1; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll,

Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Ware, Wilborn.

Nays: Pilcher-Cook.

The Conference Committee Report was adopted.

### CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MADAM PRESIDENT: Your committee on conference on Senate amendments to **HB 2031** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 4, in line 38, by striking "section" and inserting "subsection";

On page 6, following line 6, by inserting:

"Sec. 2. K.S.A. 74-4909 is hereby amended to read as follows: 74-4909. (1) The board of trustees shall be responsible for the general administration of the system, subject to the provisions of this act.

(2) The board shall establish rules and regulations for the administration of the system and for the transaction of business consistent with law, which rules and regulations shall be filed in the office of the secretary of state.

(3) The board shall be responsible for the installation of a complete and adequate system of accounts and records. The board shall contract with the department of administration to provide such accounting services as are necessary to avoid duplication of efforts and promote efficiency. The board shall pay the department of administration an amount not exceeding the actual cost incurred in providing this service, which payments shall be deposited in the state treasury and then credited to the state general fund.

(4) All meetings of the board shall be open to the public. The board shall keep a record of all proceedings.

(5) The board may prescribe rules and regulations for the determination of the value of maintenance, board, lodging, laundry and other allowances to employees in lieu of money.

(6) The board may adopt all necessary actuarial tables to be used in the operation of the system as recommended by the actuary, and may compile such additional data as may be necessary for required actuarial valuations and calculations. Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions specified by the board in a way that precludes employer discretion.

(7) Subject to the provisions of K.S.A. 74-49,123, and amendments thereto, the board or the investment committee may invest all cash not required for current payments in securities eligible for investment under this act. All actions of the investment committee shall be reported to the board at the first meeting of the board following the action of the investment committee.

(8) The board, as soon after the close of the fiscal year as practical, shall publish for distribution among members a financial statement showing the financial status of the system.

(9) All decisions of the board as to questions of fact shall be final and conclusive

on all persons except for the right of review as provided by law and except for fraud or such gross mistake of fact as to have an effect equivalent to fraud.

(10) Each member's account and records shall be administered in a confidential manner and specific data regarding the member shall not be released unless authorized in writing by the member; however, the board may release information to the employer or to other state and federal agencies as the board deems necessary.

(11) The board shall develop and adopt a specific plan which outlines strategies, goals, procedures and related costs, including additional employees necessary to carry out the provisions of this subsection, to provide for the system's internal management of the investment and reinvestment of moneys of the fund as provided in K.S.A. 74-4921, and amendments thereto. Such internal management would replace the management of all or part of the fund by persons the board has contracted with as provided in ~~subsection (7) of~~ K.S.A. 74-4921(7), and amendments thereto. The board shall report such plan developed pursuant to this subsection to the legislature and the governor on or before January 1, 1993.

(12) The board shall adopt rules and regulations providing the requirements and procedures for the election of members of the board by members and retirants of the system as provided in ~~subsection (a)(2) of~~ K.S.A. 74-4905(a)(2), and amendments thereto, and for the filling of any vacancy involving such elected member of the board.

(13) The board shall cooperate with and provide any assistance to the actuary, the legislative coordinating council and the joint committee on pensions, investments and benefits related to the independent actuarial audit and evaluation as provided in K.S.A. 74-4908a, and amendments thereto.

(14) The board shall be responsible for the administration of the Kansas public employees deferred compensation plan and all related functions as prescribed in K.S.A. 74-4911f, ~~K.S.A. 74-49b01 through 74-49b06, and amendments thereto,~~ and the Kansas public employees deferred compensation act, K.S.A. 74-49b07 et seq., and amendments thereto.

(15) The board is hereby authorized and empowered, in the exercise of its fiduciary duty to act in the best interest of the Kansas public employees retirement fund, and in the maintenance of transparency in state government, to:

(a) Develop policies and procedures generally applicable to the procurement of goods and services, based upon sound business practices;

(b) make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act in a manner consistent with the professional services sunshine act, K.S.A. 2018 Supp. 75-37,130 through 75-37,135, and amendments thereto; and

(c) authorize in-state and out-of-state travel for trustees and employees of the system in accordance with the provisions of K.S.A. 75-3203a, and amendments thereto.

Sec. 3. K.S.A. 74-4911 is hereby amended to read as follows: 74-4911. (1) Any employee of a participating employer other than an elected official on the entry date of such employer shall be a member of the system on either the entry date or the first day of the payroll period coinciding with or following the completion of one year of service, whichever is later, except that an employee of a participating employer who was first employed by a participating employer on or after July 1, 2008, but before July 1, 2009, shall be a member on July 1, 2009, and except that an employee who is first employed by a participating employer on or after July 1, 2009, shall be a member of the system on

the first day of employment of such employee with such participating employer. On and after July 1, 2019, employees employed in direct support positions of an affiliated employer organized under K.S.A. 19-4001, and amendments thereto, and defined under K.S.A. 39-1803, and amendments thereto, may become a member of the system on the first day of the payroll period coinciding with or following the completion of a two-year period of training, whichever is later. For purposes of this act occasional breaks in service which shall not exceed an aggregate of 10 days in any such year shall not constitute a break in service for purposes of determining the membership date of such employee.

(2) Except as otherwise provided in this subsection, any employee other than an elected official who is employed by a participating employer after the entry date of such employer shall be a member of the system on the first day of the payroll period coinciding with or following completion of one year of continuous service. For purposes of this act, occasional breaks in service which shall not exceed an aggregate of 10 days in any such year shall not constitute a break in continuous service for purposes of determining the membership date of such employee. For purposes of this subsection, any employee of a local governmental unit which has its own pension plan who becomes an employee of a participating employer as a result of a merger or consolidation of services provided by local governmental units, which occurred on January 1, 1994, may count service with such local governmental unit in determining whether such employee has met the one year of continuous service requirement contained in this subsection.

(3) Any employee who is an elected official and is eligible to join the system shall file, within 90 days after taking the oath of office, an irrevocable election to become or not to become a member of the system. Such election shall become effective immediately upon making such election, if such election is made within 14 days of taking the oath of office or, otherwise, on the first day of the first payroll period of the first quarter following receipt of the election in the office of the retirement system. In the event that such elected official fails to file the election to become a member of the retirement system, it shall be presumed that such person has elected not to become a member.

(4) Except as otherwise required by USERRA, any employee other than an elected official who is in military service or on leave of absence on the entry date of such employee's employer shall become a member of the system upon returning to active employment or on the first day of the payroll period coinciding with or following the completion of one year of service, whichever is later. For purposes of this act, occasional breaks in service which shall not exceed an aggregate of 10 days in any such year shall not constitute a break in service for purposes of determining the membership date of such employee.

(5) Any employee of the state of Kansas other than an elected official, who is receiving or is eligible for assistance by the state board of regents in the purchase of a retirement annuity under K.S.A. 74-4925, and amendments thereto, and who becomes ineligible for such assistance because such employee's position is reclassified to a position in the classified service under the Kansas civil service act, or who becomes ineligible for such assistance because such person accepts and transfers to a position in the classified service under the Kansas civil service act shall be a member of the system on the first day of the payroll period coinciding with or following the effective date of

such reclassification or transfer. Any such employee who became ineligible for such assistance prior to the effective date of this act because of such a reclassification or such a transfer occurring prior to the effective date of this act and who is not a member of the system on the effective date of this act shall be a member of the system on the first day of the payroll period coinciding with or following the effective date of this act.

(6) Any employee of the state board of regents or of an educational institution under its management, other than an elected official, who is a member of the system and who becomes ineligible to be a member of the system because such employee's position is reclassified to a position under the Kansas civil service act which is eligible for assistance by the state board of regents in the purchase of a retirement annuity under K.S.A. 74-4925, and amendments thereto, or who becomes ineligible to be a member of the system because such employee transfers to a position under the Kansas civil service act which is eligible for such assistance, shall become eligible for such assistance in accordance with the provisions of K.S.A. 74-4925, and amendments thereto, unless such employee files a written election in the office of the retirement system, in the form and manner prescribed by the board of trustees thereof, to remain a member of the system prior to the first day of the first complete payroll period occurring after the effective date of such reclassification or transfer. Failure to file such written election shall be presumed to be an election not to remain a member of the system and to become eligible for assistance by the state board of regents in the purchase of a retirement annuity under K.S.A. 74-4925, and amendments thereto. Such election, whether to remain a member of the system or to become eligible for such assistance, shall be effective as of the effective date of such reclassification or transfer, and shall be irrevocable.

(7) Any elected official who at the time of becoming an elected official is already a member of the system by being or having been an employee of a participating employer shall continue as a member of the system.

Sec. 4. K.S.A. 74-4914 is hereby amended to read as follows: 74-4914. (1) The normal retirement date for a member of the system shall be the first day of the month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 60 days, or 180 days as provided in subsection (10), and without any prearranged agreement for employment with any participating employer, and the attainment of age 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. In no event shall a normal retirement date for a member be before six months after the entry date of the participating employer by whom such member is employed. A member may retire on the normal retirement date or on the first day of any month thereafter upon the filing with the office of the retirement system of an application in such form and manner as the board shall prescribe. Such application shall contain a certification by the member that the member will not be employed with any participating employer within 60 days, or 180 days as provided in subsection (10), of retirement and the member has not entered into a prearranged agreement for employment with any participating employer. Nothing herein shall prevent any person, member or retirant from being employed, appointed or elected as an employee, appointee, officer or member of the legislature. Elected officers may retire

from the system on any date on or after the attainment of the normal retirement date, but no retirement benefits payable under this act shall be paid until the member has terminated such member's office.

(2) No retirant shall make contributions to the system or receive service credit for any service after the date of retirement.

(3) Any member who is an employee of an affiliating employer pursuant to K.S.A. 74-4954b, and amendments thereto, and has not withdrawn such member's accumulated contributions from the Kansas police and firemen's retirement system may retire before such member's normal retirement date on the first day of any month coinciding with or following the attainment of age 55.

(4) Any member may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 60 days, or 180 days as provided in subsection (10), and the attainment of age 55 with the completion of 10 years of credited service, but in no event before six months after the entry date, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe. The member's application for retirement shall contain a certification by the member that the member will not be employed with any participating employer within 60 days, or 180 days as provided in subsection (10), of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.

(5) Except as provided in subsections (7) and (10), on or after July 1, 2006, through December 31, 2017, for any retirant who is first employed or appointed in or to any position or office by a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, for any retirant who is employed by a third-party entity who contracts services with a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation to fill a position covered under K.S.A. 72-5410(a), and amendments thereto, with such retirant, such participating employer shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment or appointment. If a retirant is employed or appointed in or to any position or office for which compensation for service is paid in an amount equal to \$25,000 or more in any one calendar year between July 1, 2016, and January 1, 2018, by any participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, by any third-party entity who contracts services to fill a position covered under K.S.A. 72-5410(a), and amendments thereto, with such retirant with a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The participating employer who employs such retirant whether by contract directly with the retirant or through an arrangement with a third-party entity shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. Any participating employer who contracts services with any such third-party entity to fill a position covered under K.S.A. 72-5410(a), and

amendments thereto, shall include in such contract a provision or condition which requires the third-party entity to provide the participating employer with the necessary compensation paid information related to any such position filled by the third-party entity with a retirant to enable the participating employer to comply with provisions of this subsection relating to the payment of contributions and reporting requirements. The provisions and requirements provided for in amendments made in this act which relate to positions filled with a retirant or employment of a retirant by a third-party entity shall not apply to any contract for services entered into prior to April 1, 2009, between a participating employer and third-party entity as described in this subsection. Any retirant employed by a participating employer or a third-party entity as provided in this subsection shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may be needed by the executive director to carry out the provisions of this act. The provisions of this subsection shall not apply to retirants employed as substitute teachers without a contract or officers, employees or appointees of the legislature. The provisions of this subsection shall not apply to members of the legislature. The provisions of this subsection shall not apply to any other elected officials. Commencing July 1, 2005, the provisions of this subsection shall not apply to retirants who either retired under the provisions of subsection (1), or, if they retired under the provisions of subsection (4), were retired more than 30 days prior to the effective date of this act and are licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302(k), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment. The provisions of the subsection shall expire on January 1, 2018.

(6) For purposes of this section, any employee of a local governmental unit which has its own pension plan who becomes an employee of a participating employer as a result of a merger or consolidation of services provided by local governmental units, which occurred on January 1, 1994, may count service with such local governmental unit in determining whether such employee has met the years of credited service requirements contained in this section.

(7) (a) (i) Except as provided in K.S.A. 74-4937(3), (4), or (5), and amendments thereto, and the provisions of this subsection, commencing July 1, 2016, and ending January 1, 2018, any retirant who is employed or appointed in or to any position by a participating employer, an independent contractor or a third-party entity who contracts services with a participating employer to fill a position, without any prearranged agreement with such participating employer and not prior to 60 days after such retirant's retirement date, shall not receive any retirement benefit for any month in any calendar year in which the retirant receives compensation in an amount equal to \$25,000 or more, pursuant to this subsection. Any participating employer who hires a retirant covered by this subsection shall pay to the system the statutorily prescribed employer contribution rate for such retirant, without regard to whether the retirant is receiving

benefits.

(ii) Commencing January 1, 2018, for all retirements that occurred prior to such date, any retirant who is employed or appointed in or to any position by a participating employer, an independent contractor or a third-party entity who contracts services with a participating employer to fill a position, without any prearranged agreement with such participating employer and not prior to 60 days after such retirant's retirement date, shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such position. If a retirant is employed in a covered position, as defined in K.S.A. 74-49,202, and amendments thereto, the participating employer of such retirant shall pay to the system the statutorily prescribed employer contribution rate on the first \$25,000 of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of \$25,000 in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year. If a retirant is employed in a non-covered position, no employer contribution shall be paid to the system.

(b) The provisions of this subsection shall not apply, except as specifically provided in this subsection, to retirants who are:

(i) Licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or 38-2302(k), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation and the statutorily prescribed employee contribution during any such period of employment;

(ii) employed by a school district in a position as provided in K.S.A. 74-4937(3), (4) or (5), and amendments thereto;

(iii) certified law enforcement officers employed by the law enforcement training center. Such law enforcement officers shall receive their benefits notwithstanding this subsection. The law enforcement training center shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment;

(iv) members of the Kansas police and firemen's retirement system pursuant to K.S.A. 74-4951 et seq., and amendments thereto, members of the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and amendments thereto, or members of the state board of regents retirement plan pursuant to K.S.A. 74-4925 et seq., and amendments thereto;

(v) employed as substitute teachers without a contract or officers, employees or appointees of the legislature;

(vi) a poll worker hired to work an election day for a county election officer responsible for conducting all official elections held in the county;

(vii) employed by, or have accepted employment from, a participating employer prior to May 1, 2015. Any break in continuous employment by a retirant or move to a different position by a retirant during the effective period of this subsection shall be deemed new employment and shall subject the retirant to the provisions of this subsection. Commencing January 1, 2018, the participating employer of a retirant described in this subsection (7)(b)(vii) who is employed in a covered position, as



defined in K.S.A. 74-49,202, and amendments thereto, shall pay to the system the statutorily prescribed employer contribution rate on the first \$25,000 of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of \$25,000 in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year. If a retirant is employed in a non-covered position, no employer contribution shall be paid to the system; ~~or~~

(viii) state or local elected officials. A retirant shall not be employed in an elected office within 30 days of such retirant's retirement, except that if a retirant is filling a vacant elected office, no waiting period shall be required; or

(ix) employed by the Kansas academies of the United States department of defense STARBASE program.

(c) The participating employer shall enroll all retirants, including retirants under subsection (7)(b)(i), (ii), (iii), (vii) and (viii), and report to the system when compensation is paid to a retirant as provided in this subsection. Such report shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. No retirant shall make contributions to the system or receive credit for service while employed under the provisions of this subsection.

(d) A participating employer may employ a retirant without regard to the compensation limitation in this subsection for a period of one calendar year or one school year, as the case may be, if the following requirements are met:

(i) The employer certifies to the board that the position being filled has been vacated due to an unexpected emergency or the employer has been unsuccessful in filling the position;

(ii) the employer pays to the system a 30% employer contribution based on the retirant's compensation during any such period of employment; and

(iii) the employer maintains documentation of its efforts to fill the position with a non-retirant and provides such documentation to the joint committee on pensions, investments and benefits upon request of the committee.

The provisions of this paragraph shall expire on January 1, 2018.

(e) An employer may submit a written assurance protocol to the system to extend the exception provided for in subsection (7)(d) by one-year increments for a total extension not to exceed three years. A written assurance protocol shall be submitted to the system for each one-year increment extension. If a school district submits a written assurance protocol, such written assurance protocol shall be signed by the superintendent and the board president of such school district. If a municipality, as defined in K.S.A. 75-1117, and amendments thereto, other than a school district, submits a written assurance protocol, such written assurance protocol shall be signed by the governing body or such governing body's designee for such municipality. Such written assurance protocol shall state that the position was advertised on multiple platforms for a minimum of 30 calendar days and that at least one of the following

conditions occurred:

- (i) No applications were submitted for the position;
- (ii) if applications were submitted, none of the applicants met the reference screening criteria of the employer; or
- (iii) if applications were submitted, none of the applicants possessed the appropriate licensure, certification or other necessary credentials for the position.

The provisions of this paragraph shall expire on January 1, 2018.

(f) Retirants who are independent contractors or employees of third-party entities who contract with a participating employer, shall not be subject to the compensation limitation or employer contribution requirements in this subsection or the requirements of subsection (7)(c) regarding enrollment and reporting to the system, so long as all of the following apply:

(A) The contractual relationship was not created to allow the retirant to continue employment with the participating employer after retirement in a position similar to the one such retirant held prior to retirement;

(B) the activities performed by the independent contractor or third-party entity are not normally performed exclusively by employees of that participating employer; and

(C) the retirant meets the classification of independent contractor as provided in K.S.A. 2018 Supp. 44-768, and amendments thereto, or activities performed by the third-party entity that employs the retirant are performed on a limited-term basis and the third-party entity is not a participating employer in the system.

(g) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.

(8) (a) Except as provided in subsection (8)(b), if determined by the retirement system that a retirant entered into a prearranged agreement for employment with a participating employer prior to such retirant's retirement and prior to the end of the subsequent 60-day waiting period, or the 180-day waiting period under subsection (10), the monthly retirement benefit of such retirant shall be suspended during the period that begins on the month in which the retirant is re-employed and ends six months after the retirant's termination of such employment. The retirant shall repay to the retirement system all monthly retirement benefits paid to the retirant by the retirement system that the retirant received after such employment began. The participating employer which hired such retirant shall be required to pay to the system any fees, fines, penalties or any other cost imposed by the internal revenue service and indemnify the system for any cost incurred by the system to defend any action brought by the internal revenue service based on in-service distributions which are a result of any determined prearranged agreement and for any cost incurred by the system to collect any monthly retirement benefit required to be repaid by such retirant pursuant to this subsection.

(b) For members who retired on and after July 1, 2016, and on or before July 1, 2019, if determined by the retirement system that a retirant entered into a prearranged agreement for employment with a participating employer prior to such retirant's retirement date and the subsequent 60-day waiting period, or the 180-day waiting period under subsection (10), and upon being notified of the violation, the retirant terminated such employment, the provisions of subsection (a) shall not apply. If any retirant had benefits suspended prior to July 1, 2019, such benefits shall be reimbursed by the retirement system, if the retirant terminated such prearranged employment in

accordance with the provisions of this act. On and after July 1, 2019, the executive director may waive such penalties under this subsection if it is determined by the retirement system that any of the following conditions were satisfied:

- (i) The retirant's total length of reemployment was less than 21 calendar days;
- (ii) the retirant's total compensation during the total length of reemployment was less than 10% of the amount of such retirant's retirement benefit that would be suspended pursuant to this subsection; or
- (iii) other facts and circumstances indicated that the retirant would not have been reemployed but for an error on the part of the participating employer or the retirement system in verifying the retirement status of such retirant and such retirant immediately terminated employment upon being notified of the violation.

(c) On or before the first day of each regular session of the legislature, beginning with the 2020 regular session, the executive director shall submit an annual report on the number of waivers granted pursuant to subsection (8)(b) in the prior calendar year to the joint committee on pensions, investments and benefits, the house of representatives standing committee on financial institutions and pensions and the senate standing committee on financial institutions and insurance, or the successors of such committees.

(9) For the purposes of this section a prearranged agreement for employment may be determined by whether the facts and circumstances of the situation indicate that the employer and employee reasonably anticipated that further services would be performed after the employee's retirement.

(10) (a) Notwithstanding the provisions of subsection (5) or (7) to the contrary, commencing January 1, 2018, any retirant who is retired more than 60 days, if such retirant's age on the date of retirement is 62 or older, or is retired more than 180 days, if such retirant's age on the date of retirement is less than 62, and who is subsequently hired without any prearranged agreement with the participating employer in a covered position, as defined in K.S.A. 74-49,202, and amendments thereto, or an independent contractor or a third-party entity who contracts service to fill such covered position shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such covered position. The participating employer of such retirant shall pay to the system the statutorily prescribed employer contribution rate on the first \$25,000 of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of \$25,000 in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year.

(b) Notwithstanding the provisions of subsection (5) or (7) to the contrary, commencing January 1, 2018, any retirant who is retired more than 60 days, if such retirant's age on the date of retirement is 62 or older, or is retired more than 180 days, if such retirant's age on the date of retirement is less than 62, and who is subsequently hired without any prearranged agreement with the participating employer in a non-covered position, or an independent contractor or a third-party entity who contracts service to fill such non-covered position, shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such non-covered position. No employer contribution shall be paid to the system on compensation paid to a retirant hired in a

non-covered position.

(c) The participating employer shall enroll all retirants, including retirants under subsection (7)(b)(i), (ii), (iii), (vii) and (viii), and report to the system when compensation is paid to a retirant as provided in this subsection. Such report shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement in the case of a retirant whose age on the date of retirement is 62 or older, or within 180 days of such retirant's retirement in the case of a retirant whose age on the date of retirement is less than 62, and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. No retirant shall make contributions to the system or receive credit for service while employed under the provisions of this subsection.

(d) The provisions of this subsection relating to an earnings limitation and employer contributions shall not apply to any retirant described in subsection (7)(b) or to retirants who are independent contractors or employees of third-party entities who contract with a participating employer as described in subsection (7)(f), except as specifically provided in this subsection.

(e) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right that is not subject to amendment or nullification by act of the legislature.

Sec. 5. K.S.A. 74-4986/ is hereby amended to read as follows: 74-4986/. (a) As used in this act, unless otherwise provided or the context otherwise requires:

- (1) "Act" means the Kansas deferred retirement option program act;
- (2) "board" means the board of trustees of the Kansas public employees retirement system;
- (3) "DROP" means the deferred retirement option program established by K.S.A. 74-4986m, and amendments thereto;
- (4) "DROP account" means the notional account to which is credited the monthly DROP accrual;
- (5) "DROP period" means the period of time that a member irrevocably elects to participate in the DROP pursuant to K.S.A. 74-4986n, and amendments thereto;
- (6) "member" means a trooper, examiner or officer of the Kansas highway patrol or an agent of the Kansas bureau of investigation who is eligible to participate in the DROP and who elects to participate in the DROP as provided in this act;
- (7) "monthly DROP accrual" means the amount equal to the monthly retirement benefit that would have been payable to the member had the member terminated service and retired on the day the member elected; and
- (8) "system" means the Kansas police and firemen's retirement system.

(b) Unless specifically provided in this section or in this act, words and phrases used in this act shall have the meanings ascribed to them as provided under the provisions of K.S.A. 74-4901 et seq. and K.S.A. 74-4951 et seq., and amendments thereto.

Sec. 6. K.S.A. 74-4986p is hereby amended to read as follows: 74-4986p. (a) A member's participation in the DROP ceases on the occurrence of the earliest of the following:

(1) Termination of the member's active service with the Kansas highway patrol or Kansas bureau of investigation;

(2) the last day of the member's elected DROP period that begins on the effective date of the member's election to participate in the DROP;

(3) retirement due to disability as defined in K.S.A. 74-4952, and amendments thereto; or

(4) the member's death.

(b) If a member dies before taking a distribution from such member's DROP account, the member's designated beneficiary shall receive a lump-sum payment equal to the member's DROP account balance, including any lump sum credited as provided in K.S.A. 74-4986o(d), and amendments thereto. If the DROP member has not named a beneficiary for such member's DROP account, the amount in the DROP account shall be paid to the beneficiary of the member's retirement benefit.

Sec. 7. K.S.A. 74-4986r is hereby amended to read as follows: 74-4986r. The provisions of K.S.A. 74-4986k through 74-4986r, and amendments thereto, shall expire on January 1, ~~2020~~ 2025";

Also on page 6, in line 7, after "K.S.A." by inserting "74-4909, 74-4911, 74-4914,"; also in line 7, by striking "is" and inserting ", 74-4986l, 74-4986p and 74-4986r are"; in line 9, by striking "Kansas register" and inserting "statute book";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "police"; in line 2, by striking all before "retirement" and inserting "public employees"; also in line 2, after "system" by inserting "and systems thereunder"; also in line 2, after "service-connected" by inserting "in the Kansas police and firemen's retirement system; powers and duties of the board of trustees; developing procedures for procurement of goods and services; making and entering into certain contracts; authorizing travel for trustees and employees of the system; relating to membership waiting period for direct support positions of community developmental disability organizations; employment after retirement, exempting individuals employed by the Kansas academies of the United States department of defense STARBASE program, providing certain retirants exemption from penalties, authorizing reimbursement of certain suspended retirement benefits, conditions for penalty waiver; relating to the deferred retirement option program act, including agents of the Kansas bureau of investigation as members, extending sunset date"; in line 3, after "K.S.A." by inserting "74-4909, 74-4911, 74-4914,"; also in line 3, after "74-4952" by inserting ", 74-4986l, 74-4986p and 74-4986r"; also in line 3, by striking "section" and inserting "sections";

And your committee on conference recommends the adoption of this report.

ROB OLSON  
RICK BILLINGER  
MARY WARE

*Conferees on part of Senate*

JIM KELLY  
BOYD ORR  
GAIL FINNEY

*Conferees on part of House*

Senator Olson moved the Senate adopt the Conference Committee Report on **HB 2031**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Ware, Wilborn.

The Conference Committee Report was adopted.

### **CONFERENCE COMMITTEE REPORT**

MR. SPEAKER and MADAM PRESIDENT: Your committee on conference on Senate amendments to HB 2039 submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee of the Whole amendments, as follows:

On page 1, by striking all in lines 4 through 20 and inserting:

"New Section 1. (a) Unless otherwise provided in an operating agreement, any person may enter into an operating agreement or amendment thereof by an agent, including an attorney-in-fact. An authorization, including a power of attorney, to enter into an operating agreement or amendment thereof need not be in writing, need not be sworn to, verified or acknowledged.

(b) For all purposes of the laws of the state of Kansas, unless otherwise provided in an operating agreement, a power of attorney or proxy with respect to a limited liability company granted to any person shall be irrevocable if it states that it is irrevocable and it is coupled with an interest sufficient in law to support an irrevocable power or proxy. Such irrevocable power of attorney or proxy, unless otherwise provided therein or in an operating agreement, shall not be affected by subsequent death, disability, incapacity, dissolution, termination of existence or bankruptcy of, or any other event concerning, the principal. A power of attorney or proxy with respect to matters relating to the organization, internal affairs or termination of a limited liability company or granted by a person as a member or an assignee of a limited liability company interest or by a person seeking to become a member or an assignee of a limited liability company interest and, in either case, granted to the limited liability company, a manager or member thereof, or any of their respective officers, directors, managers, members, partners, trustees, employees or agents shall be deemed coupled with an interest sufficient in law to support an irrevocable power or proxy. The provisions of this subsection shall not be construed to limit the enforceability of a power of attorney or proxy that is part of an operating agreement.

New Sec. 2. (a) As used in this section, and section 7, and amendments thereto, and K.S.A. 17-7675, and amendments thereto:

(1) "Dividing company" means the domestic limited liability company that is effecting a division in the manner provided in this section.

(2) "Division" means the division of a dividing company into two or more domestic limited liability companies in accordance with this section.

(3) "Division company" means a surviving company, if any, and each resulting company.

(4) "Division contact" means, in connection with any division, a natural person who is a Kansas resident, any division company in such division or any other domestic limited liability company or other domestic entity as defined in K.S.A. 2018 Supp. 17-78-102, and amendments thereto, which division contact shall maintain a copy of the plan of division for a period of six years from the effective date of the division and shall comply with subsection (g)(3).

(5) "Organizational documents" means the articles of organization and operating agreement of a domestic limited liability company.

(6) "Resulting company" means a domestic limited liability company formed as a consequence of a division.

(7) "Surviving company" means a dividing company that survives the division.

(b) Pursuant to a plan of division, any domestic limited liability company may, in the manner provided in this section, be divided into two or more domestic limited liability companies. The division of a domestic limited liability company in accordance with this section and, if applicable, the resulting cessation of the existence of the dividing company pursuant to a certificate of division shall not be deemed to affect the personal liability of any person incurred prior to such division with respect to matters arising prior to such division, nor shall it be deemed to affect the validity or enforceability of any obligations or liabilities of the dividing company incurred prior to such division; except that such obligations and liabilities shall be allocated to and vested in, and valid and enforceable obligations of, such division company or companies to which such obligations and liabilities have been allocated pursuant to the plan of division, as provided in subsection (l). Each resulting company in a division shall be formed in compliance with the requirements of the Kansas revised limited liability company act and subsection (i).

(c) If the operating agreement of the dividing company specifies the manner of adopting a plan of division, the plan of division shall be adopted as specified in the operating agreement. If the operating agreement of the dividing company does not specify the manner of adopting a plan of division and does not prohibit a division of the limited liability company, the plan of division shall be adopted in the same manner as is specified in the operating agreement for authorizing a merger or consolidation that involves the limited liability company as a constituent party to the merger or consolidation. If the operating agreement of the dividing company does not specify the manner of adopting a plan of division or authorizing a merger or consolidation that involves the limited liability company as a constituent party and does not prohibit a division of the limited liability company, the adoption of a plan of division shall be authorized by the consent or approval of members who own more than 50% of the then-current percentage or other interest in the profits of the dividing company owned by all of the members. Notwithstanding prior consent or approval, a plan of division may be terminated or amended pursuant to a provision for such termination or amendment

contained in the plan of division.

(d) Unless otherwise provided in a plan of division, the division of a domestic limited liability company pursuant to this section shall not require such limited liability company to wind up its affairs under K.S.A. 17-76,118, and amendments thereto, or pay its liabilities and distribute its assets under K.S.A. 17-76,119, and amendments thereto, and the division shall not constitute a dissolution of such limited liability company.

(e) In connection with a division under this section, rights or securities of, or interests in, the dividing company may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving company or any resulting company or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, an entity as defined in K.S.A. 2018 Supp. 17-78-102, and amendments thereto, that is not a division company, or may be canceled or remain outstanding, if the dividing company is a surviving company.

(f) (1) A plan of division adopted in accordance with subsection (c):

(A) May effect: (i) Any amendment to the operating agreement of the dividing company if it is a surviving company in the division; or (ii) the adoption of a new operating agreement for the dividing company if it is a surviving company in the division; and

(B) shall effect the adoption of a new operating agreement for each resulting company.

(2) Any amendment to an operating agreement or adoption of a new operating agreement for the dividing company, if it is a surviving company in the division, or adoption of a new operating agreement for each resulting company made pursuant to this subsection shall be effective at the effective time or date of the division. Any amendment to an operating agreement or adoption of an operating agreement for the dividing company, if it is a surviving company in the division, shall be effective notwithstanding any provision in the operating agreement of the dividing company relating to amendment or adoption of a new operating agreement, other than a provision that by its terms applies to an amendment to the operating agreement or the adoption of a new operating agreement, in either case, in connection with a division, merger or consolidation.

(g) If a domestic limited liability company is dividing under this section, the dividing company shall adopt a plan of division that shall set forth:

(1) The terms and conditions of the division, including:

(A) Any conversion or exchange of the limited liability company interests of the dividing company into or for limited liability company interests or other securities or obligations of any division company or cash, property, or rights or securities or obligations of or interests in an entity as defined in K.S.A. 2018 Supp. 17-78-102, and amendments thereto, that is not a division company, or that the limited liability company interests of the dividing company shall remain outstanding or be canceled, or any combination of the foregoing; and

(B) the allocation of assets, property, rights, series, debts, liabilities, and duties of the dividing company among the division companies;



(2) the name of each resulting company and, if the dividing company will survive the division, the name of the surviving company;

(3) the name and business address of a division contact, which shall have custody of a copy of the plan of division. The division contact, or any successor division contact, shall serve for a period of six years following the effective date of the division. During such six-year period, the division contact shall provide, without cost, to any creditor of the dividing company, within 30 days following the division contact's receipt of a written request from any creditor of the dividing company, the name and business address of the division company to which the claim of such creditor was allocated pursuant to the plan of division; and

(4) any other matters that the dividing company determines to include therein.

(h) If a domestic limited liability company divides under this section, the surviving company, if any, or any other division company shall file a certificate of division executed by one or more authorized persons on behalf of such division company in the office of the secretary of state in accordance with K.S.A. 2018 Supp. 17-7910, and amendments thereto, and articles of organization that comply with K.S.A. 17-7673, and amendments thereto, for each resulting company executed by one or more authorized persons in accordance with K.S.A. 2018 Supp. 17-7908(b), and amendments thereto. The certificate of division shall state:

(1) The name of the dividing company and, if it has been changed, the name under which its articles of organization were originally filed and whether the dividing company is a surviving company;

(2) the name of each division company;

(3) the name and business address of the division contact required by subsection (g) (3);

(4) the future effective date or time, which shall be a date or time certain, of the division if it is not to be effective upon the filing of the certificate of division;

(5) that the division has been consented to or approved in accordance with this section;

(6) that the plan of division is on file at a place of business of such division company as is specified therein, and shall state the address thereof; and

(7) that a copy of the plan of division will be furnished by such division company as is specified therein, on request and without cost, to any member of the dividing company.

(i) The certificate of division and each articles of organization for each resulting company required by subsection (h) shall be filed simultaneously in the office of the secretary of state and, if such certificate and articles of organization are not to become effective upon their filing, then each such certificate shall provide for the same effective date or time in accordance with K.S.A. 2018 Supp. 17-7911, and amendments thereto. Concurrently with the effective date or time of a division, the operating agreement of each resulting company shall become effective.

(j) A certificate of division shall act as a certificate of cancellation for a dividing

company that is not a surviving company.

(k) An operating agreement may provide that a domestic limited liability company shall not have the power to divide as set forth in this section.

(l) Upon the division of a domestic limited liability company becoming effective:

(1) The dividing company shall be subdivided into the distinct and independent resulting companies named in the plan of division, and, if the dividing company is not a surviving company, the existence of the dividing company shall cease.

(2) For all purposes of the laws of the state of Kansas, all of the rights, privileges and powers, and all the property, real, personal, and mixed, of the dividing company and all debts due on whatever account to it, as well as all other things and other causes of action belonging to it, shall without further action be allocated to and vested in the applicable division company in such a manner and basis and with such effect as is specified in the plan of division, and the title to any real property or interest therein allocated to and vested in any division company shall not revert or be in any way impaired by reason of the division.

(3) Each division company shall, from and after effectiveness of the certificate of division, be liable as a separate and distinct domestic limited liability company for such debts, liabilities and duties of the dividing company as are allocated to such division company pursuant to the plan of division in the manner and on the basis provided in subsection (g)(1)(B).

(4) Each of the debts, liabilities and duties of the dividing company shall without further action be allocated to and be the debts, liabilities and duties of such division company as is specified in the plan of division as having such debts, liabilities and duties allocated to it, in such a manner and basis and with such effect as is specified in the plan of division, and no other division company shall be liable therefor, so long as the plan of division does not constitute a fraudulent transfer under applicable law, and all liens upon any property of the dividing company shall be preserved unimpaired, and all debts, liabilities and duties of the dividing company shall remain attached to the division company to which such debts, liabilities and duties have been allocated in the plan of division, and may be enforced against such division company to the same extent as if such debts, liabilities and duties had originally been incurred or contracted by it in its capacity as a domestic limited liability company.

(5) In the event that any allocation of assets, debts, liabilities and duties to division companies in accordance with a plan of division is determined by a court of competent jurisdiction to constitute a fraudulent transfer, each division company shall be jointly and severally liable on account of such fraudulent transfer notwithstanding the allocations made in the plan of division, except that the validity and effectiveness of the division are not otherwise affected thereby.

(6) Debts and liabilities of the dividing company that are not allocated by the plan of division shall be the joint and several debts and liabilities of all of the division companies.

(7) It shall not be necessary for a plan of division to list each individual asset, property, right, series, debt, liability or duty of the dividing company to be allocated to a

division company so long as the assets, property, rights, series, debts, liabilities or duties so allocated are reasonably identified by any method where the identity of such assets, property, rights, series, debts, liabilities or duties is objectively determinable.

(8) The rights, privileges, powers, and interests in property of the dividing company that have been allocated to a division company, as well as the debts, liabilities and duties of the dividing company that have been allocated to such division company pursuant to a plan of division, shall remain vested in each such division company and shall not be deemed, as a result of the division, to have been assigned or transferred to such division company for any purpose of the laws of the state of Kansas.

(9) Any action or proceeding pending against a dividing company may be continued against the surviving company as if the division did not occur and against any resulting company to which the asset, property, right, series, debt, liability or duty associated with such action or proceeding was allocated pursuant to the plan of division by adding or substituting such resulting company as a party in the action or proceeding.

(m) In applying the provisions of the Kansas revised limited liability company act on distributions, a direct or indirect allocation of property or liabilities in a division is not deemed a distribution.

(n) The provisions of this section shall not be construed to limit the means of accomplishing a division by any other means provided for in an operating agreement or other agreement or as otherwise permitted by the Kansas revised limited liability company act or as otherwise permitted by law.

(o) All limited liability companies formed on and after July 1, 2019, shall be governed by this section. All limited liability companies formed prior to July 1, 2019, shall be governed by this section, except that if the dividing company is a party to any written contract, indenture or other agreement entered into prior to July 1, 2019, that, by its terms, restricts, conditions or prohibits the consummation of a merger or consolidation by the dividing company with or into another party, or the transfer of assets by the dividing company to another party, then such restriction, condition or prohibition shall be deemed to apply to a division as if it were a merger, consolidation or transfer of assets, as applicable.

New Sec. 3. (a) Pursuant to an agreement of merger or consolidation, one or more series may merge or consolidate with or into one or more other series of the same limited liability company with such series as the agreement shall provide being the surviving or resulting series. Unless otherwise provided in the operating agreement, an agreement of merger or consolidation shall be consented to or approved by each series that is to merge or consolidate by members of such series who own more than 50% of the then-current percentage or other interest in the profits of such series owned by all of the members of such series. In connection with a merger or consolidation hereunder, rights or securities of, or interests in, a series which is a constituent party to the merger or consolidation may be exchanged for or converted into cash, property, rights, or securities of, or interests in, the surviving or resulting series or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights, or securities of, or interests in, an entity as defined in K.S.A. 2018 Supp. 17-78-102, and amendments thereto, that is not the surviving or resulting series in the merger or consolidation, may

remain outstanding or may be canceled. Notwithstanding prior consent or approval, an agreement of merger or consolidation may be terminated or amended pursuant to a provision for such termination or amendment contained in the agreement of merger or consolidation.

(b) If a series is merging or consolidating under this section, the series surviving or resulting in or from the merger or consolidation shall file a certificate of merger or consolidation executed by one or more authorized persons on behalf of the series when it is the surviving or resulting series in the office of the secretary of state. The certificate of merger or consolidation shall state:

(1) The name of each series that is to merge or consolidate and the name of the limited liability company that formed such series;

(2) that an agreement of merger or consolidation has been consented to or approved and executed by or on behalf of each series that is to merge or consolidate;

(3) the name of the surviving or resulting series;

(4) such amendment, if any, to the certificate of designation of the series that is the surviving or resulting series to change the name of the surviving series, as is desired to be effected by the merger;

(5) the future effective date or time, which shall be a date or time certain, of the merger or consolidation if it is not to be effective upon the filing of the certificate of merger or consolidation;

(6) that the agreement of merger or consolidation is on file at a place of business of the surviving or resulting series or the limited liability company that formed such series and shall state the address thereof; and

(7) that a copy of the agreement of merger or consolidation will be furnished by the surviving or resulting series, upon request and without cost, to any member of any series that is to merge or consolidate.

(c) Unless a future effective date or time is provided in a certificate of merger or consolidation, a merger or consolidation pursuant to this section shall be effective upon the filing of a certificate of merger or consolidation in the office of the secretary of state.

(d) A certificate of merger or consolidation shall act as a certificate of cancellation of the certificate of designation of the series that is not the surviving or resulting series in the merger or consolidation. A certificate of merger or consolidation that sets forth any amendment in accordance with subsection (b)(4) shall be deemed to be an amendment to the certificate of designation of the surviving or resulting series, and no further action shall be required to amend the certificate of designation of the surviving or resulting series under K.S.A. 2018 Supp. 17-76,143, and amendments thereto, with respect to such amendments set forth in the certificate of merger or consolidation. Whenever this section requires the filing of a certificate of merger or consolidation, such requirement shall be deemed satisfied by the filing of an agreement of merger or consolidation containing the information required by this section to be set forth in the certificate of merger or consolidation.

(e) An agreement of merger or consolidation consented to or approved in accordance with subsection (a) may effect any amendment to the operating agreement relating solely to the series that are constituent parties to the merger or consolidation. Any amendment to an operating agreement relating solely to the series that are constituent parties to the merger or consolidation made pursuant to the foregoing sentence shall be effective at the effective time or date of the merger or consolidation and shall be effective notwithstanding any provision of the operating agreement relating to amendment of the operating agreement, other than a provision that by its terms applies to an amendment to the operating agreement in connection with a merger or consolidation. The provisions of this subsection shall not be construed to limit the accomplishment of a merger or of any of the matters referred to herein by any other means provided for in an operating agreement or other agreement or as otherwise permitted by law, including that the operating agreement relating to any constituent series to the merger or consolidation, including a series formed for the purpose of consummating a merger or consolidation, shall be the operating agreement of the surviving or resulting series.

(f) (1) (A) When any merger or consolidation shall have become effective under this section, for all purposes of the laws of the state of Kansas, all of the rights, privileges and powers of each of the series that have merged or consolidated, and all property, real, personal and mixed, and all debts due to any of such series, as well as all other things and causes of action belonging to each of such series, shall be vested in the surviving or resulting series, and shall thereafter be the property of the surviving or resulting series as they were of each of the series that have merged or consolidated, and the title to any real property vested by deed or otherwise, under the laws of the state of Kansas, in any of such series, shall not revert or be in any way impaired by reason of the Kansas revised limited liability company act.

(B) All rights of creditors and all liens upon any property of any of the series that have merged or consolidated shall be preserved unimpaired, and all debts, liabilities and duties of each of such series that have merged or consolidated shall thereafter attach to the surviving or resulting series, and may be enforced against it to the same extent as if such debts, liabilities and duties had been incurred or contracted by it.

(2) Unless otherwise agreed, a merger or consolidation of a series that is not the surviving or resulting series in the merger or consolidation, shall not require such series to wind up its affairs under K.S.A. 2018 Supp. 17-76,143, and amendments thereto, or pay its liabilities and distribute its assets under K.S.A. 2018 Supp. 17-76,143, and amendments thereto, and the merger or consolidation shall not constitute a dissolution of such series.

(g) An operating agreement may provide that a series of such limited liability company shall not have the power to merge or consolidate as set forth in this section.

(h) This section shall take effect on and after July 1, 2020.

New Sec. 4. (a) A series whose certificate of designation has been canceled pursuant to K.S.A. 17-76,139, and amendments thereto, may be reinstated by filing in the office of the secretary of state a certificate of reinstatement accompanied by the payment of the fee required by K.S.A. 17-76,136(d), and amendments thereto, and

payment of the annual report fee due under K.S.A. 17-76,139(c), and amendments thereto, and all penalties and interest thereon due at the time of the cancellation of its certificate of designation. The certificate of reinstatement shall set forth:

(1) The name of the limited liability company at the time the certificate of designation was canceled and, if such name has changed, the name of the limited liability company at the time of reinstatement of the series;

(2) the name of the series at the time the certificate of designation was canceled and, if such name is not available at the time of reinstatement, the name under which the series is to be reinstated;

(3) a statement that the certificate of reinstatement is filed by one or more persons authorized to execute and file the certificate of reinstatement to reinstate the series; and

(4) any other matters the persons executing the certificate of reinstatement determine to include therein.

(b) The certificate of reinstatement shall be deemed to be an amendment to the certificate of designation, and no further actions shall be required to amend its certificate of designation under K.S.A. 2018 Supp. 17-76,143(d)(3), and amendments thereto, with respect to the matters set forth in the certificate of reinstatement.

(c) Upon the filing of a certificate of reinstatement, a series shall be reinstated with the same force and effect as if its certificate of designation had not been canceled pursuant to K.S.A. 17-76,139, and amendments thereto. Such reinstatement shall validate all contracts, acts, matters and things made, done and performed by the series, its members, managers, employees and agents during the time when its certificate of designation was canceled pursuant to K.S.A. 17-76,139, and amendments thereto, with the same force and effect and to all intents and purposes as if the certificate of designation had remained in full force and effect. All real and personal property, and all rights and interests, that belonged to the series at the time its certificate of designation was canceled pursuant to K.S.A. 17-76,139, and amendments thereto, or were acquired by the series following the cancellation of its certificate of designation pursuant to K.S.A. 17-76,139, and amendments thereto, and were not disposed of prior to the time of its reinstatement, shall be vested in the series after its reinstatement as fully as they were held by the series at, and after, as the case may be, the time its certificate of designation was canceled pursuant to K.S.A. 17-76,139, and amendments thereto. After its reinstatement, the series shall be as exclusively liable for all contracts, acts, matters and things made, done or performed in its name and on its behalf by its members, managers, employees and agents prior to its reinstatement as if its certificate of designation had at all times remained in full force and effect.

(d) This section shall take effect on and after July 1, 2020.

New Sec. 5. Sections 5 through 12, and amendments thereto, apply to all statutory public benefit limited liability companies, as defined in section 6, and amendments thereto. If a limited liability company elects to become a statutory public benefit limited liability company under sections 5 through 12, and amendments thereto, in the manner prescribed in sections 5 through 12, and amendments thereto, it shall be subject in all respects to the provisions of the Kansas revised limited liability company act, except to the extent sections 5 through 12, and amendments thereto, impose additional or

different requirements, such requirements shall apply and notwithstanding K.S.A. 17-76,134, and amendments thereto, or any other provision of the Kansas revised limited liability company act, such requirements imposed by sections 5 through 12, and amendments thereto, may not be altered in the operating agreement.

New Sec. 6. (a) A "statutory public benefit limited liability company" is a for-profit limited liability company formed under and subject to the requirements of the Kansas revised limited liability company act that is intended to produce a public benefit or public benefits and to operate in a responsible and sustainable manner. To that end, a statutory public benefit limited liability company shall be managed in a manner that balances the members' pecuniary interests, the best interests of those materially affected by the limited liability company's conduct, and the public benefit or public benefits set forth in its articles of organization. A statutory public benefit limited liability company shall state in the heading of its articles of organization that it is a statutory public benefit limited liability company, and shall set forth one or more specific public benefits to be promoted by the limited liability company in its articles of organization. The operating agreement of a statutory public benefit limited liability company may not contain any provision inconsistent with sections 5 through 12, and amendments thereto.

(b) "Public benefit" means a positive effect, or reduction of negative effects, on one or more categories of persons, entities, communities or interests, other than members in their capacities as members, including, but not limited to, effects of an artistic, charitable, cultural, economic, educational, environmental, literary, medical, religious, scientific or technological nature. "Public benefit provisions" means the provisions of the articles of organization, an operating agreement, or both, in either case as contemplated by sections 5 through 12, and amendments thereto.

(c) If the name of a statutory public benefit limited liability company does not contain the term "statutory public benefit limited liability company," or the abbreviation "S.P.B.L.L.C.," or the designation "SPBLLC," or words or abbreviations of like import in other languages if they are written in Roman characters or letters, the statutory public benefit limited liability company shall, prior to issuing any limited liability company interest, provide notice to any person to whom such limited liability company interest is issued that it is a statutory public benefit limited liability company. Such notice need not be provided if the issuance is pursuant to an offering registered under the securities act of 1933, 15 U.S.C. § 77r et seq., or if, at the time of issuance, the statutory public benefit limited liability company has a class of securities that is registered under the securities exchange act of 1934, 15 U.S.C. § 78a et seq.

New Sec. 7. Notwithstanding any other provision of the Kansas revised limited liability company act and unless otherwise provided in the operating agreement, a statutory public benefit limited liability company may not, without the vote, consent or approval of members who own at least  $\frac{2}{3}$  of the then-current percentage or other interest in the profits of the limited liability company owned by all members:

(a) Amend its articles of organization to delete or amend a provision required by section 6(a), and amendments thereto;

(b) merge or consolidate with or into another entity or divide into two or more domestic limited liability companies if, as a result of such merger, consolidation or

division, the limited liability company interests in such limited liability company would become, or be converted into or exchanged for the right to receive, limited liability company interests or other equity interests in a domestic or foreign limited liability company or other entity that is not a statutory public benefit limited liability company or similar entity, the articles of organization or operating agreement, or similar governing document, of which does not contain provisions identifying a public benefit or public benefits comparable in all material respects to those set forth in the articles of organization of such limited liability company as contemplated by section 6(a), and amendments thereto, or that does not contain provisions imposing requirements pursuant to section 9, and amendments thereto, that are comparable in all material respects to those set forth in the articles of organization of such limited liability company; or

(c) cease to be a statutory public benefit limited liability company under the provisions of sections 5 through 12, and amendments thereto.

New Sec. 8. (a) The members, managers or other persons with authority to manage or direct the business and affairs of a statutory public benefit limited liability company shall manage or direct the business and affairs of the statutory public benefit limited liability company in a manner that balances the pecuniary interests of the members, the best interests of those materially affected by the limited liability company's conduct, and the specific public benefit or public benefits set forth in its articles of organization. Unless otherwise provided in an operating agreement, a member, manager or other person with authority to manage or direct the business and affairs of the statutory public benefit limited liability company shall not have any liability for monetary damages for the failure to manage or direct the business and affairs of the statutory public benefit limited liability company as provided in this subsection.

(b) A member, manager or other person with authority to manage or direct the business and affairs of the statutory public benefit limited liability company shall not, by virtue of the public benefit provisions or section 6(a), and amendments thereto, have any duty to any person on account of any interest of such person in the public benefit or public benefits set forth in its articles of organization or on account of any interest materially affected by the limited liability company's conduct and, with respect to a decision implicating the balance requirement in subsection (a), will be deemed to satisfy such person's fiduciary duties to members and the limited liability company if such person's decision is both informed and disinterested and not such that no person of ordinary, sound judgment would approve.

New Sec. 9. (a) A statutory public benefit limited liability company, at least annually, shall provide its members with a statement as to the limited liability company's promotion of the public benefit or public benefits set forth in its articles of organization and as to the best interests of those materially affected by the limited liability company's conduct. The statement shall include:

(1) The objectives that have been established to promote such public benefit or public benefits and interests;

(2) the standards that have been adopted to measure the limited liability company's progress in promoting such public benefit or public benefits and interests;



(3) objective factual information based on those standards regarding the limited liability company's success in meeting the objectives for promoting such public benefit or public benefits and interests; and

(4) an assessment of the limited liability company's success in meeting the objectives and promoting such public benefit or public benefits and interests.

(b) A statutory public benefit limited liability company shall provide the statement in subsection (a) to its members at the time prescribed by K.S.A. 17-76,139, and amendments thereto, for the filing of the statutory public benefit limited liability company's annual report.

(c) The statement described in subsection (a) shall be based on a third-party standard. A "third-party standard" means a standard for defining, reporting and assessing promotion of the public benefit or public benefits identified in the statutory public benefit limited liability company's articles of organization that: (1) Is developed by a person or entity that is independent of the statutory public benefit limited liability company; and (2) is transparent because the following information about the standard is publicly available: (A) The factors considered when measuring the performance of a business; (B) the relative weightings of those factors; and (C) the identity of the persons who developed the standard and who control changes to the standard and the process by which those changes are made. For purposes of this section, the term "independent" means having no material relationship with the statutory public benefit limited liability company or any of its members, managers, affiliates or other persons with authority to manage or direct the business and affairs of the statutory public benefit limited liability company.

(d) A statutory public benefit limited liability company shall post its most recent statement described in subsection (a) on the public portion of its website, if any, concurrently with the delivery of such statement to its members under subsection (b). If a statutory public benefit limited liability company does not have a website, it shall provide a copy of such statement, without charge, to any person that requests a copy. Any compensation paid to any person and any other financial or proprietary information contained in the statement described in subsection (a) may be omitted from any statement that is publicly posted or provided to any person pursuant to this subsection, other than a statement provided to a member, manager or other person with authority to manage or direct the business and affairs of the statutory public benefit limited liability company.

(e) The articles of organization or the operating agreement of a statutory public benefit limited liability company may require that the statutory public benefit limited liability company obtain a periodic third-party certification addressing the statutory public benefit limited liability company's promotion of the public benefit or public benefits identified in the articles of organization or the best interests of those materially affected by the statutory public benefit limited liability company's conduct, or both.

New Sec. 10. Members of a statutory public benefit limited liability company or assignees of limited liability company interests in a statutory public benefit limited liability company owning individually or collectively, as of the date of instituting such derivative suit, at least 2% of the then-current percentage or other interest in the profits

of the limited liability company or, in the case of a limited liability company with limited liability company interests listed on a national securities exchange, the lesser of such percentage or limited liability company interests of at least \$2,000,000 in market value, unless an operating agreement provides for a different percentage or other interest or market value, may maintain a derivative lawsuit to enforce the requirements set forth in section 8(a), and amendments thereto.

New Sec. 11. Sections 5 through 12, and amendments thereto, shall not affect a statute or rule of law that is or would be applicable to any limited liability company that is formed under the Kansas revised limited liability company act but is not a statutory public benefit limited liability company.

New Sec. 12. The provisions of sections 5 through 12, and amendments thereto, shall not be construed to limit the accomplishment by any other means permitted by law of the formation or operation of a limited liability company that is formed or operated for a public benefit, including a limited liability company that is designated as a public benefit limited liability company, that is not a statutory public benefit limited liability company.

Sec. 13. K.S.A. 2018 Supp. 17-7662 is hereby amended to read as follows: 17-7662. K.S.A. 17-7662 through ~~17-76,143~~ 17-76,142, and amendments thereto, and K.S.A. 2018 Supp. ~~17-76,144~~ 17-76,143 through 17-76,146, and sections 1 through 12, and amendments thereto, shall be known and may be cited as the Kansas revised limited liability company act.

Sec. 14. K.S.A. 2018 Supp. 17-7663 is hereby amended to read as follows: 17-7663. As used in ~~this~~ the Kansas revised limited liability company act unless the context otherwise requires:

(a) "Articles of organization" means the articles of organization referred to in K.S.A. 17-7673, and amendments thereto, and the articles of organization as amended.

(b) "Bankruptcy" means an event that causes a person to cease to be a member as provided in K.S.A. 17-7689, and amendments thereto.

(c) "Contribution" means any cash, property, services rendered or a promissory note or other obligation to contribute cash or property or to perform services, which a person contributes to a limited liability company in such person's capacity as a member.

(d) "Foreign limited liability company" means a limited liability company formed under the laws of any state or under the laws of any foreign country or other foreign jurisdiction ~~and denominated as such under the laws of such state or foreign country or other foreign jurisdiction.~~ When used in the Kansas revised limited liability company act in reference to a foreign limited liability company, the terms "operating agreement," "limited liability company interest," "manager" or "member" shall mean an operating agreement, limited liability company interest, manager or member, respectively, under the laws of the state or foreign country or other foreign jurisdiction under which the foreign limited liability company is formed.

(e) "Knowledge" means a person's actual knowledge of a fact, rather than the person's constructive knowledge of the fact.

(f) "Limited liability company" and "domestic limited liability company" means a limited liability company formed under the laws of the state of Kansas and having one or more members.

(g) "Limited liability company interest" means a member's share of the profits and

losses of a limited liability company and a member's right to receive distributions of the limited liability company's assets.

(h) "Liquidating trustee" means a person carrying out the winding up of a limited liability company.

(i) "Manager" means a person who is named as a manager of a limited liability company in, or designated as a manager of a limited liability company pursuant to, an operating agreement or similar instrument under which the limited liability company is formed.

(j) "Member" means a person who is admitted to a limited liability company as a member as provided in K.S.A. 17-7686, and amendments thereto, ~~or, in the case of a foreign limited liability company, in accordance with the laws of the state or foreign country or other foreign jurisdiction under which the foreign limited liability company is formed.~~

(k) "Operating agreement" means any agreement, whether referred to as an operating agreement, limited liability company agreement or otherwise, written, oral, or implied, of the member or members as to the affairs of a limited liability company and the conduct of its business. A member or manager of a limited liability company or an assignee of a limited liability company interest is bound by the operating agreement whether or not the member or manager or assignee executes the operating agreement. A limited liability company is not required to execute its operating agreement. A limited liability company is bound by its operating agreement whether or not the limited liability company executes the operating agreement. An operating agreement of a limited liability company having only one member shall not be unenforceable by reason of there being only one person who is a party to the operating agreement. An operating agreement is not subject to any statute of frauds, including K.S.A. 33-106, and amendments thereto. An operating agreement may provide rights to any person, including a person who is not a party to the operating agreement, to the extent set forth therein. A written operating agreement or another written agreement or writing:

(1) May provide that a person shall be admitted as a member of a limited liability company, or shall become an assignee of a limited liability company interest or other rights or powers of a member to the extent assigned:

(A) If such person, or a representative authorized by such person orally, in writing or by other action such as payment for a limited liability company interest, executes the operating agreement or any other writing evidencing the intent of such person to become a member or assignee; or

(B) without such execution, if such person, or a representative authorized by such person orally, in writing or by other action such as payment for a limited liability company interest, complies with the conditions for becoming a member or assignee as set forth in the operating agreement or any other writing; and

(2) shall not be unenforceable by reason of its not having been signed by a person being admitted as a member or becoming an assignee as provided in subsection (k)(1), or by reason of its having been signed by a representative as provided in ~~this~~ the Kansas revised limited liability company act.

(l) "Person" means a natural person, partnership, whether general or limited, limited liability company, trust, including a common law trust, business trust, statutory trust, voting trust or any other form of trust, estate, association, including any group, organization, co-tenancy, plan, board, council or committee, corporation, government,

including a country, state, county or any other governmental subdivision, agency or instrumentality, custodian, nominee or any other individual or entity, or series thereof, in its own or any representative capacity, in each case, whether domestic or foreign.

(m) "Personal representative" means, as to a natural person, the executor, administrator, guardian, conservator or other legal representative thereof and, as to a person other than a natural person, the legal representative or successor thereof.

(n) "Series" means a designated series of members, managers, limited liability company interests or assets that is established in accordance with K.S.A. 2018 Supp. 17-76,143, and amendments thereto.

(o) "State" means the District of Columbia or the commonwealth of Puerto Rico or any state, territory, possession or other jurisdiction of the United States other than the state of Kansas.

Sec. 15. K.S.A. 2018 Supp. 17-7673 is hereby amended to read as follows: 17-7673. (a) In order to form a limited liability company, one or more authorized persons must execute articles of organization. The articles of organization shall be filed with the secretary of state and set forth:

- (1) The name of the limited liability company;
- (2) the address of the registered office required to be maintained by K.S.A. 2018 Supp. 17-7924, and amendments thereto, and the name of the resident agent for service of process required to be maintained by K.S.A. 2018 Supp. 17-7925, and amendments thereto;
- (3) any other matters the members determine to include therein;
- (4) if the limited liability company is organized to exercise the powers of a professional association or professional corporation, each such profession shall be stated; and
- (5) if the limited liability company will have series, the matters required by K.S.A. 17-76,143, and amendments thereto.

(b) A limited liability company is formed at the time provided in K.S.A. 2018 Supp. 17-7911, and amendments thereto, if there has been substantial compliance with the requirements of this section. A limited liability company formed under ~~this the Kansas revised limited liability company~~ act shall be a separate legal entity, the existence of which as a separate legal entity shall continue until cancellation of the limited liability company's articles of organization.

(c) An operating agreement shall be entered into or otherwise existing either before, after or at the time of the filing of the articles of organization and, whether entered into or otherwise existing before, after or at the time of such filing, may be made effective as of the effective time of such filing or at such other time or date as provided in or reflected by the operating agreement.

(d) The articles of organization shall be amended as provided in a certificate of amendment or judicial decree of amendment upon the filing of the certificate of amendment or judicial decree of amendment with the secretary of state or upon the future effective date specified in the certificate of amendment.

(e) Upon filing the articles of organization of a limited liability company organized to exercise powers of a professional association or professional corporation, the limited liability company shall file with the secretary of state a certificate by the licensing body, as defined in K.S.A. 74-146, and amendments thereto, of the profession involved that each of the members is duly licensed to practice that profession, and that the proposed

company name has been approved.

Sec. 16. K.S.A. 2018 Supp. 17-7675 is hereby amended to read as follows: 17-7675. (a) Articles of organization shall be canceled upon the dissolution and the completion of winding up of a limited liability company, or as provided in K.S.A. 17-76,117 or 17-76,139 or K.S.A. 2018 Supp. 17-7926(b) or 17-7929(b), and amendments thereto, or upon the filing of a certificate of merger or consolidation if the limited liability company is not the surviving or resulting entity in a merger or consolidation, or upon the future effective date of a certificate of merger or consolidation if the limited liability company is not the surviving or resulting entity in a merger or consolidation, or upon the filing of a certificate of division if the limited liability company is a dividing company that is not a surviving company, or upon the future effective date of a certificate of division if the limited liability company is a dividing company that is not a surviving company. A certificate of cancellation shall be filed with the secretary of state to accomplish the cancellation of articles of organization upon the dissolution and the completion of winding up of a limited liability company. The certificate shall set forth:

- (1) The name of the limited liability company;
- (2) the reason for filing the certificate of cancellation;
- (3) the future effective date or time, ~~which shall be a date or time certain not later than 90 days after the date of filing,~~ of cancellation if it is not to be effective upon the filing of the certificate; and

- (4) any other information the person filing the certificate of cancellation determines.

(b) A certificate of cancellation that is filed with the secretary of state prior to the dissolution or the completion of winding up of a limited liability company may be corrected as an erroneously executed certificate of cancellation by filing with the secretary of state a certificate of correction of such certificate of cancellation in accordance with K.S.A. 2018 Supp. 17-7912, and amendments thereto.

(c) The secretary of state shall not issue a certificate of good standing with respect to a limited liability company if its articles of organization are canceled.

Sec. 17. On and after July 1, 2020, K.S.A. 2018 Supp. 17-7675, as amended by section 16 of this act, is hereby amended to read as follows: 17-7675. (a) Articles of organization shall be canceled upon the dissolution and the completion of winding up of a limited liability company, or as provided in K.S.A. 17-76,117 or 17-76,139 or K.S.A. 2018 Supp. 17-7926(b) or 17-7929(b), and amendments thereto, or upon the filing of a certificate of merger or consolidation if the limited liability company is not the surviving or resulting entity in a merger or consolidation or upon the future effective date of a certificate of merger or consolidation if the limited liability company is not the surviving or resulting entity in a merger or consolidation or upon the filing of a certificate of division if the limited liability company is a dividing company that is not a surviving company or upon the future effective date of a certificate of division if the limited liability company is a dividing company that is not a surviving company. A certificate of cancellation shall be filed with the secretary of state to accomplish the cancellation of articles of organization upon the dissolution and the completion of winding up of a limited liability company. The certificate shall set forth:

- (1) The name of the limited liability company;
- (2) the reason for filing the certificate of cancellation;
- (3) if the limited liability company has formed one or more series whose certificate

of designation has not been canceled prior to the filing of the certificate of cancellation, the name of each such series;

(4) the future effective date or time of cancellation if it is not to be effective upon the filing of the certificate; and

~~(4)(5)~~ any other information the person filing the certificate of cancellation determines.

(b) A certificate of cancellation that is filed with the secretary of state prior to the dissolution or the completion of winding up of a limited liability company may be corrected as an erroneously executed certificate of cancellation by filing with the secretary of state a certificate of correction of such certificate of cancellation in accordance with K.S.A. 2018 Supp. 17-7912, and amendments thereto.

(c) The secretary of state shall not issue a certificate of good standing with respect to a limited liability company, or any series thereof, if its articles of organization are canceled.

Sec. 18. K.S.A. 2018 Supp. 17-7679 is hereby amended to read as follows: 17-7679. The fact that articles of organization, or amendments thereto, are on file with the secretary of state is notice that the entity formed in connection with the filing of the articles of organization is a limited liability company formed under the laws of the state of Kansas and is notice of all other facts set forth therein which are required to be set forth in articles of organization by ~~subsections (a)(1), (a)(2), (a)(4) and (a)(5) of K.S.A. 17-7673(a)(1), (a)(2), (a)(4) and (a)(5), and amendments thereto, and section 6, and amendments thereto.~~

Sec. 19. On and after July 1, 2020, K.S.A. 2018 Supp. 17-7679, as amended by section 18 of this act, is hereby amended to read as follows: 17-7679. The fact that articles of organization, or amendments thereto, are on file with the secretary of state is notice that the entity formed in connection with the filing of the articles of organization is a limited liability company formed under the laws of the state of Kansas and is notice of all other facts set forth therein which are required to be set forth in articles of organization by K.S.A. 17-7673(a)(1), (a)(2), (a)(4) and (a)(5), and amendments thereto, and K.S.A. 2018 Supp. 17-76,143(b) and section 6, and amendments thereto. The fact that a certificate of designation is on file in the office of the secretary of state is notice that the series named in such certificate of designation has been formed pursuant to K.S.A. 2018 Supp. 17-76,143, and amendments thereto, and is notice of all other facts set forth therein, which are required to be set forth in a certificate of designation by K.S.A. 2018 Supp. 17-76,143(d), and amendments thereto.

Sec. 20. K.S.A. 2018 Supp. 17-7680 is hereby amended to read as follows: 17-7680. (a) A limited liability company may, whenever desired, integrate into a single instrument all of the provisions of its articles of organization which are then in effect and operative as a result of there having previously been filed with the secretary of state one or more certificates or other instruments pursuant to K.S.A. 17-7673 through 17-7683, and amendments thereto, ~~and~~ the business entity standard treatment act, K.S.A. 2018 Supp. 17-7901 et seq., and amendments thereto, and section 2, and amendments thereto, and it may at the same time also further amend its articles of organization by adopting restated articles of organization.

(b) If restated articles of organization merely restate and integrate but do not further amend the initial articles of organization, as previously amended or supplemented by any certificate or instrument that was executed and filed pursuant to K.S.A. 17-7673

through 17-7683, and amendments thereto, and the business entity standard treatment act, K.S.A. 2018 Supp. 17-7901 et seq., and amendments thereto, they shall be specifically designated in their heading as "restated articles of organization" together with such other words as the limited liability company may deem appropriate and shall be executed by an authorized person and filed with the secretary of state as provided in K.S.A. 2018 Supp. 17-7910, and amendments thereto. If restated articles of organization restate and integrate and also further amend in any respect the articles of organization, as previously amended or supplemented, they shall be specifically designated in their heading as "amended and restated articles of organization" together with such other words as the limited liability company may deem appropriate and shall be executed by at least one authorized person and filed as provided in K.S.A. 2018 Supp. 17-7910, and amendments thereto.

(c) Restated articles of organization shall state, either in their heading or in an introductory paragraph, the limited liability company's present name; if it has been changed, the name under which it was originally filed; the date of filing of its original articles of organization with the secretary of state; and the future effective date, which shall be a date certain, of the restated articles of organization if they are not to be effective upon the filing of the restated articles of organization with the secretary of state, ~~such future effective date must be within 90 days of the date of filing such restated articles of organization with the secretary of state.~~ Restated articles of organization shall also state that they were duly executed and are being filed in accordance with this section. If restated articles of organization only restate and integrate and do not further amend a limited liability company's articles of organization as previously amended or supplemented and there is no discrepancy between those provisions and the restated articles of organization, they shall state that fact as well.

(d) Upon the filing of restated articles of organization with the secretary of state, or upon the future effective date of restated articles of organization as provided for therein, the initial articles of organization, as previously amended or supplemented, shall be superseded. Thereafter the restated articles of organization, including any further amendment or changes made thereby, shall be the articles of organization of the limited liability company, but the original effective date of formation shall remain unchanged.

(e) Any amendment or change effected in connection with the restatement and integration of the articles of organization shall be subject to any other provision of ~~this the Kansas revised limited liability company~~ act, not inconsistent with this section, which would apply if a separate certificate of amendment were filed to effect such amendment or change.

Sec. 21. On and after July 1, 2020, K.S.A. 2018 Supp. 17-7680, as amended by section 20 of this act, is hereby amended to read as follows: 17-7680. (a) Restated articles of organization.

(1) A limited liability company may, whenever desired, integrate into a single instrument all of the provisions of its articles of organization which are then in effect and operative as a result of there having previously been filed with the secretary of state one or more certificates or other instruments pursuant to K.S.A. 17-7673 through 17-7683, and amendments thereto, and the business entity standard treatment act, K.S.A. 2018 Supp. 17-7901 et seq., and amendments thereto, and ~~section sections 2 and 3,~~ and amendments thereto, and it may at the same time also further amend its articles of organization by adopting restated articles of organization.

(b)(2) If restated articles of organization merely restate and integrate but do not further amend the initial articles of organization, as previously amended or supplemented by any certificate or instrument that was executed and filed pursuant to K.S.A. 17-7673 through 17-7683, and amendments thereto, and the business entity standard treatment act, K.S.A. 2018 Supp. 17-7901 et seq., and amendments thereto, they shall be specifically designated in their heading as "restated articles of organization" together with such other words as the limited liability company may deem appropriate and shall be executed by an authorized person and filed with the secretary of state as provided in K.S.A. 2018 Supp. 17-7910, and amendments thereto. If restated articles of organization restate and integrate and also further amend in any respect the articles of organization, as previously amended or supplemented, they shall be specifically designated in their heading as "amended and restated articles of organization" together with such other words as the limited liability company may deem appropriate and shall be executed by at least one authorized person and filed as provided in K.S.A. 2018 Supp. 17-7910, and amendments thereto.

(c)(3) Restated articles of organization shall state, either in their heading or in an introductory paragraph, the limited liability company's present name; if it has been changed, the name under which it was originally filed; the date of filing of its original articles of organization with the secretary of state; and the future effective date, which shall be a date certain, of the restated articles of organization if they are not to be effective upon the filing of the restated articles of organization with the secretary of state, ~~such future effective date must be within 90 days of the date of filing such restated articles of organization with the secretary of state.~~ Restated articles of organization shall also state that they were duly executed and are being filed in accordance with this section. If restated articles of organization only restate and integrate and do not further amend a limited liability company's articles of organization as previously amended or supplemented and there is no discrepancy between those provisions and the restated articles of organization, they shall state that fact as well.

(d)(4) Upon the filing of restated articles of organization with the secretary of state, or upon the future effective date of restated articles of organization as provided for therein, the initial articles of organization, as previously amended or supplemented, shall be superseded. Thereafter the restated articles of organization, including any further amendment or changes made thereby, shall be the articles of organization of the limited liability company, but the original effective date of formation shall remain unchanged.

(e)(5) Any amendment or change effected in connection with the restatement and integration of the articles of organization shall be subject to any other provision of this act, not inconsistent with this section, which would apply if a separate certificate of amendment were filed to effect such amendment or change.

**(b) Restated certificate of designation.**

(1) A series of a limited liability company may, whenever desired, integrate into a single instrument all of the provisions of its certificate of designation that are then in effect and operative as a result of there having previously been filed with the secretary of state one or more certificates or other instruments pursuant to K.S.A. 17-7673 through 17-7683, and amendments thereto, the business entity standard treatment act, K.S.A. 2018 Supp. 17-7901 et seq., and amendments thereto, and sections 2 and 3, and amendments thereto, and it may at the same time further amend its certificate of



designation by adopting a restated certificate of designation.

(2) If a restated certificate of designation merely restates and integrates but does not further amend the initial certificate of designation, as previously amended or supplemented by any instrument that was executed and filed pursuant to K.S.A. 17-7673 through 17-7683, and amendments thereto, the business entity standard treatment act, K.S.A. 2018 Supp. 17-7901 et seq., and amendments thereto, and sections 2 and 3, and amendments thereto, it shall be specifically designated in its heading as a "restated certificate of designation" together with such other words as the series may deem appropriate and shall be executed by an authorized person and filed as provided in K.S.A. 2018 Supp. 17-7910, and amendments thereto. If a restated certificate restates and integrates and also further amends in any respect the certificate of designation as previously amended or supplemented, it shall be specifically designated in its heading as an "amended and restated certificate of designation" together with such other words as the series may deem appropriate and shall be executed by at least one authorized person and filed as provided in K.S.A. 2018 Supp. 17-7910, and amendments thereto.

(3) A restated certificate of designation shall state, either in its heading or in an introductory paragraph, the name of the limited liability company, the present name of the series, and, if the name of the series has been changed, the name under which it was originally filed, and the future effective date or time, which shall be a date or time certain, of the restated certificate of designation if it is not to be effective upon the filing of the restated certificate of designation. A restated certificate shall also state that it was duly executed and is being filed in accordance with this section. If a restated certificate only restates and integrates and does not further amend a certificate of designation, as previously amended or supplemented and there is no discrepancy between those provisions and the restated certificate, it shall state that fact as well.

(4) Upon the filing of a restated certificate of designation with the secretary of state, or upon the future effective date or time of a restated certificate of designation as provided for therein, the initial certificate of designation, as theretofore amended or supplemented, shall be superseded. Thereafter, the restated certificate of designation, including any further amendment or changes made thereby, shall be the certificate of designation of such series, but the original effective date of formation of the series, as applicable, shall remain unchanged.

(5) Any amendment or change effected in connection with the restatement and integration of a certificate of designation shall be subject to any other provision of the Kansas revised limited liability company act, not inconsistent with this section, which would apply if a separate certificate of amendment were filed to effect such amendment or change.

Sec. 22. K.S.A. 2018 Supp. 17-7681 is hereby amended to read as follows: 17-7681. (a) Pursuant to an agreement of merger or consolidation, one or more domestic limited liability companies may merge or consolidate with or into one or more limited liability companies formed under the laws of the state of Kansas or any other state or any foreign country or other foreign jurisdiction, or any combination thereof, with such limited liability company as the agreement shall provide being the surviving or resulting limited liability company.

(1) (A) Unless otherwise provided in the operating agreement, an agreement of merger or consolidation shall be consented to or approved by each domestic limited liability company which is to merge or consolidate by members who own more than

50% of the then-current percentage or other interest in the profits of the domestic limited liability company owned by all of the members;

(B) unless otherwise provided in the operating agreement, a limited liability company whose original articles of organization were filed with the secretary of state and effective on or prior to June 30, 2019, shall not be governed by subsection (a)(1) (A), but shall be governed by this subparagraph. Unless otherwise provided in the operating agreement, an agreement of merger or consolidation shall be consented to or approved by each domestic limited liability company which is to merge or consolidate by the members, or if there is more than one class or group of members, then by each class or group of members, in either case, by members who own more than 50% of the then current percentage or other interest in the profits of the domestic limited liability company owned by all of the members or by the members in each class or group, as appropriate.

(2) In connection with a merger or consolidation hereunder, rights or securities of, or interests in, a domestic limited liability company which is a constituent party to the merger or consolidation may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving or resulting limited liability company or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, a limited liability company which an entity as defined in K.S.A. 2018 Supp. 17-78-102, and amendments thereto, that is not the surviving or resulting limited liability company in the merger or consolidation, may remain outstanding, or may be canceled.

(3) Notwithstanding prior consent or approval, an agreement of merger or consolidation may be terminated or amended pursuant to a provision for such termination or amendment contained in the agreement of merger or consolidation.

(b) The limited liability company surviving or resulting in or from the merger or consolidation shall file a certificate of merger or consolidation executed by one or more authorized persons on behalf of the domestic limited liability company when it is the surviving or resulting entity with the secretary of state. The certificate of merger or consolidation shall state:

(1) The name and jurisdiction of formation or organization of each of the limited liability companies which is to merge or consolidate;

(2) that an agreement of merger or consolidation has been consented to or approved and executed by each of the limited liability companies which is to merge or consolidate;

(3) the name of the surviving or resulting limited liability company;

(4) in the case of a merger in which a domestic limited liability company is the surviving entity, such amendments, if any, to the articles of organization of the surviving domestic limited liability company to change its name, registered office or resident agent as are desired to be effected by the merger;

(5) the future effective date or time, which shall be a date certain, of the merger or consolidation if it is not to be effective upon the filing of the certificate of merger or consolidation, ~~which date shall, in no event, exceed 90 days after the date the certificate is filed with the secretary of state;~~

(6) that the agreement of merger or consolidation is on file at a place of business of the surviving or resulting limited liability company, and shall state the address thereof;

(7) that a copy of the agreement of merger or consolidation will be furnished by the

surviving or resulting limited liability company, on request and without cost, to any member of any limited liability company which is to merge or consolidate; and

(8) if the surviving or resulting limited liability company is not a domestic limited liability company, a statement that such surviving or resulting limited liability company agrees that it may be served with process in the state of Kansas in any action, suit or proceeding for the enforcement of any obligation of any domestic limited liability company which is to merge or consolidate, irrevocably appointing the secretary of state as its agent to accept service of process in any such action, suit or proceeding and specifying the address to which a copy of such process shall be mailed to it by the secretary of state.

(c) A certificate of merger or consolidation shall act as a certificate of cancellation for a domestic limited liability company which is not the surviving or resulting limited liability company in the merger or consolidation. A certificate of merger that sets forth any amendment in accordance with subsection (b)(4) shall be deemed to be an amendment to the articles of organization of the limited liability company, and the limited liability company shall not be required to take any further action to amend its articles of organization under K.S.A. 17-7674, and amendments thereto, with respect to such amendments set forth in the certificate of merger. Whenever this section requires the filing of a certificate of merger or consolidation, such requirement shall be deemed satisfied by the filing of an agreement of merger or consolidation containing the information required by this section to be set forth in the certificate of merger or consolidation.

(d) An agreement of merger or consolidation consented to or approved in accordance with subsection (a) ~~of this section~~ may:

- (1) Effect any amendment to the operating agreement; or
- (2) effect the adoption of a new operating agreement, for a limited liability company if it is the surviving or resulting limited liability company in the merger or consolidation.

Any amendment to an operating agreement or adoption of a new operating agreement made pursuant to the foregoing sentence shall be effective at the effective time or date of the merger or consolidation and shall be effective notwithstanding any provision of the operating agreement relating to amendment or adoption of a new operating agreement, other than a provision that by its terms applies to an amendment to the operating agreement or the adoption of a new operating agreement, in either case, in connection with a merger or consolidation. The provisions of this subsection shall not be construed to limit the accomplishment of a merger or of any of the matters referred to herein by any other means provided for in an operating agreement or other agreement or as otherwise permitted by law, including that the operating agreement of any constituent limited liability company to the merger or consolidation, including a limited liability company formed for the purpose of consummating a merger or consolidation, shall be the operating agreement of the surviving or resulting limited liability company.

(e) When any merger or consolidation shall have become effective under this section, for all purposes of the laws of the state of Kansas, all of the rights, privileges and powers of each of the limited liability companies that have merged or consolidated, and all property, real, personal and mixed, and all debts due to any of the limited liability companies, as well as all other things and causes of action belonging to each of such limited liability companies, shall be vested in the surviving or resulting limited

liability company, and shall thereafter be the property of the surviving or resulting limited liability company as they were of each of the limited liability companies that have merged or consolidated, and the title to any real property vested by deed or otherwise, under the laws of the state of Kansas, in any of such limited liability companies, shall not revert or be in any way impaired by reason of this act, but all rights of creditors and all liens upon any property of any of the limited liability companies shall be preserved unimpaired, and all debts, liabilities and duties of each of the limited liability companies that have merged or consolidated shall thenceforth attach to the surviving or resulting limited liability company, and may be enforced against it to the same extent as if the debts, liabilities and duties had been incurred or contracted by it. Unless otherwise agreed, a merger or consolidation of a domestic limited liability company, including a domestic limited liability company which is not the surviving or resulting entity in the merger or consolidation, shall not require such domestic limited liability company to wind up its affairs under K.S.A. 17-76,118, and amendments thereto, or pay its liabilities and distribute its assets under K.S.A. 17-76,119, and amendments thereto, and the merger or consolidation shall not constitute a dissolution of such limited liability company.

(f) A limited liability company may merge or consolidate with or into any other entity in accordance with the business entity transactions act, K.S.A. 2018 Supp. 17-78-101 et seq., and amendments thereto.

(g) An operating agreement may provide that a domestic limited liability company shall not have the power to merge or consolidate as set forth in this section.

Sec. 23. K.S.A. 2018 Supp. 17-7687 is hereby amended to read as follows: 17-7687. (a) An operating agreement may provide for classes or groups of members having such relative rights, powers and duties as the operating agreement may provide, and may make provision for the future creation in the manner provided in the operating agreement of additional classes or groups of members having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of members. An operating agreement may provide for the taking of an action, including the amendment of the operating agreement, without the vote, consent or approval of any member or class or group of members, including an action to create under the provisions of the operating agreement a class or group of limited liability company interests that was not previously outstanding. An operating agreement may provide that any member or class or group of members shall have no voting rights.

(b) An operating agreement may grant to all or certain identified members or a specified class or group of the members the right to vote separately or with all or any class or group of the members or managers, on any matter. Voting by members may be on a per capita, number, financial interest, class, group or any other basis.

(c) An operating agreement may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any members, waiver of any such notice, action by consent or approval without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

(d) Unless otherwise provided in an operating agreement, meetings of members may be held by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and

participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting. Unless otherwise provided in an operating agreement, on any matter that is to be voted on, consented to or approved by members, the members may take such action without a meeting, without prior notice and without a vote, if consented to or approved, in writing or, by electronic transmission, or by any other means permitted by law, by members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members entitled to vote thereon were present and voted. Unless otherwise provided in an operating agreement, if a person, whether or not then a member, consents to or approves as a member any matter and provides that such consent or approval will be effective at a future time, including a time determined upon the happening of an event, then such person shall be deemed to have consented or approved as a member at such future time so long as such person is then a member. Unless otherwise provided in an operating agreement, on any matter that is to be voted on by members, the members may vote in person or by proxy, and such proxy may be granted in writing, by means of electronic transmission or as otherwise permitted by applicable law. Unless otherwise provided in an operating agreement, a consent or approval transmitted by electronic transmission by a member or by a person or persons authorized to act for a member shall be deemed to be written and signed for purposes of this subsection. For purposes of this subsection, the term "electronic transmission" means any form of communication not directly involving the physical transmission of paper, including the use of, or participation in, one or more electronic networks or databases, including one or more distributed electronic networks or databases, that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.

(e) Unless otherwise provided in the operating agreement or ~~in this the Kansas revised limited liability company act,~~ every member holding an interest in profits shall be entitled to vote.

(f) If an operating agreement provides for the manner in which it may be amended, including by requiring the approval or consent of a person who is not a party to the operating agreement or the satisfaction of conditions, it may be amended only in that manner or as otherwise permitted by law, including as permitted by ~~subsection (e) of~~ K.S.A. 17-7681(e), and amendments thereto, provided that the approval or consent of any person may be waived by such person and that any such conditions may be waived by all persons for whose benefit such conditions were intended. Unless otherwise provided in an operating agreement, a supermajority amendment provision shall only apply to provisions of the operating agreement that are expressly included in the operating agreement. As used in this section, "supermajority amendment provision" means any amendment provision set forth in an operating agreement requiring that an amendment to a provision of the operating agreement be adopted by no less than the vote or consent or approval required to take action under such latter provision.

(g) If an operating agreement does not provide for the manner in which it may be amended, the operating agreement may be amended with the approval or consent of all of the members or as otherwise permitted by law, including as permitted by ~~subsection (e) of~~ K.S.A. 17-7681(e), and amendments thereto. This subsection shall only apply to a limited liability company whose original articles of organization were filed with the secretary of state on or after July 1, 2014.

Sec. 24. K.S.A. 2018 Supp. 17-7689 is hereby amended to read as follows: 17-7689. A person ceases to be a member of a limited liability company upon the happening of any of the following events:

(a) Unless otherwise provided in an operating agreement, or with the ~~written consent or approval~~ of all members, a member:

- (1) Makes an assignment for the benefit of creditors;
- (2) files a voluntary petition in bankruptcy;
- (3) is adjudged a bankrupt or insolvent, or has entered against the member an order for relief, in any bankruptcy or insolvency proceeding;
- (4) files a petition or answer seeking for the member any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation;
- (5) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding of this nature;
- (6) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the member or of all or any substantial part of the member's properties; or

(b) unless otherwise provided in an operating agreement, or with the ~~written consent or approval~~ of all members, 120 days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, if the proceeding has not been dismissed, or if within 90 days after the appointment without the member's consent or acquiescence of a trustee, receiver or liquidator of the member or of all or any substantial part of the member's properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated.

(b) unless otherwise provided in an operating agreement, or with the ~~written consent or approval~~ of all members, 120 days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, if the proceeding has not been dismissed, or if within 90 days after the appointment without the member's consent or acquiescence of a trustee, receiver or liquidator of the member or of all or any substantial part of the member's properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated.

(b) unless otherwise provided in an operating agreement, or with the ~~written consent or approval~~ of all members, 120 days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, if the proceeding has not been dismissed, or if within 90 days after the appointment without the member's consent or acquiescence of a trustee, receiver or liquidator of the member or of all or any substantial part of the member's properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated.

Sec. 25. K.S.A. 2018 Supp. 17-7690 is hereby amended to read as follows: 17-7690. (a) Each member of a limited liability company, in person or by attorney or other agent, has the right, subject to such reasonable standards, including standards governing what information and documents are to be furnished at what time and location and at whose expense, as may be set forth in an operating agreement or otherwise established by the manager or, if there is no manager, then by the members, to obtain from the limited liability company from time to time upon reasonable demand for any purpose reasonably related to the member's interest as a member of the limited liability company:

(1) True and full information regarding the status of the business and financial condition of the limited liability company;

(2) promptly after becoming available, a copy of the limited liability company's federal, state and local income tax returns for each year;

(3) a current list of the name and last known business, residence or mailing address of each member and manager;

(4) a copy of any written operating agreement and articles of organization and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which the operating agreement and any certificate and all amendments thereto have been executed;

(5) true and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each member and which each member has agreed to contribute in the future, and the date on

which each became a member; and

(6) other information regarding the affairs of the limited liability company as is just and reasonable.

(b) Each manager shall have the right to examine all of the information described in subsection (a) for a purpose reasonably related to the position of manager.

(c) The manager of a limited liability company shall have the right to keep confidential from the members, for such period of time as the manager deems reasonable, any information which the manager reasonably believes to be in the nature of trade secrets or other information the disclosure of which the manager in good faith believes is not in the best interest of the limited liability company or could damage the limited liability company or its business or which the limited liability company is required by law or by agreement with a third party to keep confidential.

(d) A limited liability company may maintain its records in other than a written form, including on, by means of, or in the form of any information storage device, method, or one or more electronic networks or databases, including one or more distributed electronic networks or databases, if such form is capable of conversion into written form within a reasonable time.

(e) Any demand ~~by a member~~ under this section shall be in writing and shall state the purpose of such demand. In every instance where an attorney or other agent is the person who seeks the right to obtain the information described in subsection (a), the demand shall be accompanied by a power of attorney or such other writing that authorizes the attorney or other agent to so act on behalf of the member.

(f) Any action to enforce any right arising under this section shall be brought in the district court. If the limited liability company refuses to permit a member, or attorney or other agent acting for the member, to obtain or a manager to examine the information described in subsection (a) or does not reply to the demand that has been made within five business days, or such shorter or longer period of time as is provided for in an operating agreement, but not longer than 30 business days, after the demand has been made, the demanding member or manager may apply to the district court for an order to compel such disclosure. The district court may summarily order the limited liability company to permit the demanding member to obtain or manager to examine the information described in subsection (a) and to make copies or abstracts therefrom, or the district court may summarily order the limited liability company to furnish to the demanding member or manager the information described in subsection (a) on the condition that the demanding member or manager first pay to the limited liability company the reasonable cost of obtaining and furnishing such information and on such other conditions as the district court deems appropriate. When a demanding member seeks to obtain or a manager seeks to examine the information described in subsection (a), the demanding member or manager shall first establish: (1) That the demanding member or manager has complied with the provisions of this section respecting the form and manner of making demand for obtaining or examining of such information; and (2) that the information the demanding member or manager seeks is reasonably related to the member's interest as a member or the manager's position as a manager, as the case may be. The district court may, in its discretion, prescribe any limitations or conditions with reference to the obtaining or examining of information, or award such other or further relief as the district court may deem just and proper. The district court may order books, documents and records, pertinent extracts therefrom, or duly

authenticated copies thereof, to be brought within the state of Kansas and kept in the state of Kansas upon such terms and conditions as the order may prescribe.

(g) The rights of a member or manager to obtain information as provided in this section may be restricted in an original operating agreement or in any subsequent amendment consented to, approved or adopted by all of the members or in compliance with any applicable requirements of the operating agreement. The provisions of this subsection shall not be construed to limit the ability to impose restrictions on the rights of a member or manager to obtain information by any other means permitted under ~~this~~ the Kansas revised limited liability company act.

(h) A limited liability company shall maintain a current record that identifies the name and last known business, residence, or mailing address of each member and manager.

Sec. 26. K.S.A. 2018 Supp. 17-7695 is hereby amended to read as follows: 17-7695. (a) An operating agreement may provide for classes or groups of managers having such relative rights, powers and duties as the operating agreement may provide, and may make provision for the future creation in the manner provided in the operating agreement of additional classes or groups of managers having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of managers. An operating agreement may provide for the taking of an action, including the amendment of the operating agreement, without the vote, consent or approval of any manager or class or group of managers, including an action to create under the provisions of the operating agreement a class or group of limited liability company interests that was not previously outstanding.

(b) An operating agreement may grant to all or certain identified managers or a specified class or group of the managers the right to vote, separately or with all or any class or group of managers or members, on any matter. Voting by managers may be on a per capita, number, financial interest, class, group or any other basis. Unless otherwise provided in an operating agreement, if more than one manager is appointed, all managers shall have an equal vote per capita.

(c) An operating agreement may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any manager or class or group of managers, waiver of any such notice, action by consent or approval without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

(d) Unless otherwise provided in an operating agreement, meetings of managers may be held by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting. Unless otherwise provided in an operating agreement, on any matter that is to be voted on, consented to or approved by the managers, the managers may take such action without a meeting, without prior notice and without a vote, if consented to or approved, in writing ~~or~~, by electronic transmission, or by any other means permitted by law, by managers having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all managers entitled to vote thereon were present and voted. Unless otherwise provided in an operating



agreement, if a person, whether or not then a manager, consents to or approves as a manager any matter and provides that such consent or approval will be effective at a future time, including a time determined upon the happening of an event, then such person shall be deemed to have consented or approved as a manager at such future time, so long as such person is then a manager. Unless otherwise provided in an operating agreement, on any matter that is to be voted on by managers, the managers may vote in person or by proxy, and such proxy may be granted in writing, by means of electronic transmission or as otherwise permitted by applicable law. Unless otherwise provided in an operating agreement, a consent or approval transmitted by electronic transmission by a manager or by a person or persons authorized to act for a manager shall be deemed to be written and signed for purposes of this subsection. For purposes of this subsection, the term "electronic transmission" means any form of communication not directly involving the physical transmission of paper, including the use of, or participation in, one or more electronic networks or databases, including one or more distributed electronic networks or databases, that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.

Sec. 27. K.S.A. 2018 Supp. 17-7698 is hereby amended to read as follows: 17-7698. Unless otherwise provided in the operating agreement, a member or manager of a limited liability company has the power and authority to delegate to one or more other persons any or all of the member's or manager's, as the case may be, rights ~~and~~ powers and duties to manage and control the business and affairs of the limited liability company, including to delegate. Any such delegation may be to agents, officers and employees of a member or manager or the limited liability company, and ~~to delegate~~ by a management agreement or another agreement with, or otherwise to, other persons. Unless otherwise provided in the operating agreement, such delegation by a member or manager shall be irrevocable if it states that it is irrevocable. Unless otherwise provided in the operating agreement, such delegation by a member or manager of a limited liability company shall not cause the member or manager to cease to be a member or manager, as the case may be, of the limited liability company or cause the person to whom any such rights ~~and~~ powers and duties have been delegated to be a member or manager, as the case may be, of the limited liability company. No other provision of the Kansas revised limited liability company act shall be construed to restrict a member's or manager's power and authority to delegate any or all of its rights, powers, and duties to manage and control the business and affairs of the limited liability company.

Sec. 28. K.S.A. 2018 Supp. 17-76,106 is hereby amended to read as follows: 17-76,106. (a) A member may resign from a limited liability company only at the time or upon the happening of events specified in an operating agreement and in accordance with the operating agreement. Notwithstanding anything to the contrary under applicable law, unless an operating agreement provides otherwise, a member may not resign from a limited liability company prior to the dissolution and winding up of the limited liability company.

(b) Unless otherwise provided in an operating agreement, a limited liability company whose original articles of organization were filed with the secretary of state and effective on or prior to June 30, 2014, shall ~~continue to be governed by this section as in effect on June 30, 2014, and shall not be governed by this section~~ not be governed by subsection (a) but shall be governed by this subsection. A member may resign from a

limited liability company only at the time or upon the happening of events specified in the operating agreement and in accordance with the operating agreement. Notwithstanding anything to the contrary under applicable law, unless the operating agreement provides otherwise, a member may resign from a limited liability company prior to the dissolution and winding up of the limited liability company. Upon resignation, the member shall be deemed to be an assignee and shall have only the rights of an assignee. The resigned member is not released from the member's liability, if any, to a limited liability company. Notwithstanding anything to the contrary under applicable law, the operating agreement may provide that a limited liability company interest may not be assigned prior to the dissolution and winding up of the limited liability company.

Sec. 29. K.S.A. 2018 Supp. 17-76,112 is hereby amended to read as follows: 17-76,112. (a) A limited liability company interest is assignable in whole or in part except as provided in an operating agreement. The assignee of a member's limited liability company interest shall have no right to participate in the management of the business and affairs of a limited liability company, except as provided in an operating agreement or, unless otherwise provided in the operating agreement, upon the ~~affirmative vote or written~~ consent or approval of all of the members of the limited liability company. Notwithstanding anything to the contrary under applicable law, an operating agreement may provide that a limited liability company interest may not be assigned prior to the dissolution and winding up of the limited liability company.

(b) Unless otherwise provided in an operating agreement:

(1) An assignment of a limited liability company interest does not entitle the assignee to become or to exercise any rights or powers of a member;

(2) an assignment of a limited liability company interest entitles the assignee to share in such profits and losses, to receive such distribution or distributions, and to receive such allocation of income, gain, loss, deduction, or credit or similar item to which the assignor was entitled, to the extent assigned; and

(3) a member ceases to be a member and to have the power to exercise any rights or powers of a member upon assignment of all of the member's limited liability company interest. Unless otherwise provided in an operating agreement, the pledge of, or granting of a security interest, lien or other encumbrance in or against, any or all of the limited liability company interest of a member shall not cause the member to cease to be a member or to have the power to exercise any rights or powers of a member.

(c) Unless otherwise provided in an operating agreement, a member's interest in a limited liability company may be evidenced by a certificate of limited liability company interest issued by the limited liability company. An operating agreement may provide for the assignment or transfer of any limited liability company interest represented by such a certificate and make other provisions with respect to such certificates. A limited liability company shall not have the power to issue a certificate of limited liability company interest in bearer form.

(d) Unless otherwise provided in an operating agreement and except to the extent assumed by agreement, until an assignee of a limited liability company interest becomes a member, the assignee shall have no liability as a member solely as a result of the assignment.

(e) Unless otherwise provided in the operating agreement, a limited liability company may acquire, by purchase, redemption or otherwise, any limited liability

company interest or other interest of a member or manager in the limited liability company. Unless otherwise provided in the operating agreement, any such interest so acquired by the limited liability company shall be deemed canceled.

Sec. 30. K.S.A. 2018 Supp. 17-76,113 is hereby amended to read as follows: 17-76,113. (a) On application by a judgment creditor of a member or of a member's assignee, a court having jurisdiction may charge the limited liability company interest of the judgment debtor to satisfy the judgment. To the extent so charged, the judgment creditor has only the right to receive any distribution or distributions to which the judgment debtor would otherwise have been entitled in respect of such limited liability company interest.

(b) A charging order constitutes a lien on the judgment debtor's limited liability company interest.

(c) ~~This~~ The Kansas revised limited liability company act does not deprive a member or member's assignee of a right under exemption laws with respect to the judgment debtor's limited liability company interest.

(d) The entry of a charging order is the exclusive remedy by which a judgment creditor of a member or of a member's assignee may satisfy a judgment out of the judgment debtor's limited liability company interest, and attachment, garnishment, foreclosure, or other legal or equitable remedies are not available to the judgment creditor, whether the limited liability company has one member or more than one member.

(e) No creditor of a member or of a member's assignee shall have any right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of the limited liability company.

(f) The district court shall have jurisdiction to hear and determine any matter relating to any such charging order.

Sec. 31. K.S.A. 2018 Supp. 17-76,114 is hereby amended to read as follows: 17-76,114. (a) An assignee of a limited liability company interest ~~may become~~ becomes a member:

- (1) As provided in the operating agreement; ~~or~~
- (2) unless otherwise provided in the operating agreement, upon the ~~affirmative vote or written~~ consent or approval of all of the members of the limited liability company; ~~or~~

(3) unless otherwise provided in the operating agreement by a specific reference to this subsection (a) or otherwise provided in connection with the assignment, upon the voluntary assignment by the sole member of the limited liability company of all of the limited liability company interests in the limited liability company to a single assignee. An assignment will be voluntary for purposes of this subsection (a) if it is consented to or approved by the member at the time of the assignment and is not effected by foreclosure or other similar legal process.

(b) An assignee who has become a member has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a member under an operating agreement and ~~this the Kansas revised limited liability company~~ act. Notwithstanding the foregoing, unless otherwise provided in an operating agreement, an assignee who becomes a member is liable for the obligations of the assignor to make contributions as provided in K.S.A. 17-76,100, and amendments thereto, but shall not be liable for the obligations of the assignor under K.S.A. 17-76,104 through 17-76,110,

and amendments thereto. However, the assignee is not obligated for liabilities, including the obligations of the assignor to make contributions as provided in K.S.A. 17-76,100, and amendments thereto, unknown to the assignee at the time the assignee became a member and which could not be ascertained from an operating agreement.

(c) Whether or not an assignee of a limited liability company interest becomes a member, the assignor is not released from liability to a limited liability company under K.S.A. 17-7699 through 17-76,110, and amendments thereto.

Sec. 32. K.S.A. 2018 Supp. 17-76,116 is hereby amended to read as follows: 17-76,116. (a) A limited liability company is dissolved and its affairs shall be wound up upon the first to occur of the following:

(1) At the time specified in an operating agreement, but if no such time is set forth in the operating agreement, then the limited liability company shall have a perpetual existence;

(2) upon the happening of events specified in an operating agreement;

(3) (A) unless otherwise provided in an operating agreement, upon the affirmative vote, consent or written approval of members who own  $\frac{2}{3}$  or more of the then-current percentage or other interest in the profits of the limited liability company owned by all of the members; or

(B) unless otherwise provided in an operating agreement, a limited liability company whose original articles of organization were filed with the secretary of state and effective on or prior to June 30, 2019, shall not be governed by subparagraph (A) but shall be governed by this subparagraph. Unless otherwise provided in an operating agreement, upon the vote or consent of the members of the limited liability company or, if there is more than one class or group of members, then by each class or group of members, in either case, by members who own more than  $\frac{2}{3}$  of the then-current percentage or other interest in the profits of the limited liability company owned by all of the members or by the members in each class or group, as appropriate;

(4) at any time there are no members, provided that, the limited liability company is not dissolved and is not required to be wound up if:

(A) Unless otherwise provided in an operating agreement, within 90 days or such other period as is provided for in the operating agreement after the occurrence of the event that terminated the continued membership of the last remaining member, the personal representative of the last remaining member agrees ~~in writing~~ to continue the limited liability company and to the admission of the personal representative of such member or its nominee or designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member, except that an operating agreement may provide that the personal representative of the last remaining member shall be obligated to agree ~~in writing~~ to continue the limited liability company and to the admission of the personal representative of such member or its nominee or designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member; or

(B) a member is admitted to the limited liability company in the manner provided for in the operating agreement, effective as of the occurrence of the event that terminated the continued membership of the last remaining member, within 90 days or such other period as is provided for in the operating agreement after the occurrence of the event that terminated the continued membership of the last remaining member,

pursuant to a provision of the operating agreement that specifically provides for the admission of a member to the limited liability company after there is no longer a remaining member of the limited liability company; or

(5) the entry of a decree of judicial dissolution under K.S.A. 17-76,117, and amendments thereto.

(b) Unless otherwise provided in an operating agreement, the death, retirement, resignation, expulsion, bankruptcy or dissolution of any member or the occurrence of ~~any other an~~ event that terminates the continued membership of any member shall not cause the limited liability company to be dissolved or its affairs to be wound up, and upon the occurrence of any such event, the limited liability company shall be continued without dissolution.

Sec. 33. K.S.A. 2018 Supp. 17-76,118 is hereby amended to read as follows: 17-76,118. (a) (1) Unless otherwise provided in the operating agreement, a manager who has not wrongfully dissolved a limited liability company or, if none, the members or a person consented to or approved by the members, in either case, by members who own more than 50% of the then-current percentage or other interest in the profits of the limited liability company owned by all of the members, may wind up the limited liability company's affairs, but the district court upon cause shown, may wind up the limited liability company's affairs upon application of any member or manager, or the member's personal representative or assignee, and in connection therewith, may appoint a liquidating trustee.

(2) Unless otherwise provided in the operating agreement, a limited liability company whose original articles of organization were filed with the secretary of state and effective on or prior to June 30, 2019, shall not be governed by paragraph (1) but shall be governed by this paragraph. Unless otherwise provided in the operating agreement, a manager who has not wrongfully dissolved a limited liability company or, if none, the members or a person consented to or approved by the members or, if there is more than one class or group of members, then by each class or group of members, in either case, by members who own more than 50% of the then-current percentage or other interest in the profits of the limited liability company owned by all of the members or by the members in each class or group, as appropriate, may wind up the limited liability company's affairs; but the district court upon cause shown, may wind up the limited liability company's affairs upon application of any member or manager, or the member's personal representative or assignee, and in connection therewith, may appoint a liquidating trustee.

(b) Upon dissolution of a limited liability company and until the filing of a certificate of cancellation as provided in K.S.A. 17-7675, and amendments thereto, the persons winding up the limited liability company's affairs may, in the name of, and for and on behalf of, the limited liability company, prosecute and defend suits, whether civil, criminal or administrative, gradually settle and close the limited liability company's business, dispose of and convey the limited liability company's property, discharge or make reasonable provision for the limited liability company's liabilities, and distribute to the members any remaining assets of the limited liability company, all without affecting the liability of members and managers and without imposing liability on a liquidating trustee.

Sec. 34. K.S.A. 17-76,135 is hereby amended to read as follows: 17-76,135. In any case not provided for in ~~this~~ the Kansas revised limited liability company act, the rules

of law and equity, including the rules of law and equity relating to fiduciary duties and the law merchant, shall govern.

Sec. 35. K.S.A. 2018 Supp. 17-76,136 is hereby amended to read as follows: 17-76,136. (a) The secretary of state shall charge each domestic and foreign limited liability company the following fees:

(1) A fee of \$20 for issuing or filing and indexing any of the following documents:  
 (A) A certificate of amendment of articles of organization;  
 (B) restated articles of organization;  
 (C) a certificate of cancellation;  
 (D) a certificate of change of location of registered office or resident agent;  
 (E) a certificate of merger or consolidation; ~~and~~  
 (F) a certificate of division; and  
 (G) any certificate, affidavit, agreement or any other paper provided for in this the Kansas revised limited liability company act, for which no different fee is specifically prescribed;

(2) a fee of \$7.50 for each certified copy plus a fee per page, if the secretary of state supplies the copies, in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204, and amendments thereto;

(3) a fee of \$7.50 for each certificate of good standing and certificate of fact issued by the secretary of state;

(4) a fee of \$5 for a report of record search, but furnishing the following information shall not be considered a record search and no charge shall be made therefor: Name of the limited liability company and the address of its registered office; name and address of the resident agent; the state of the limited liability company's formation; the date of filing of its articles of organization or annual report; and date of expiration; and

(5) for photocopies of instruments on file or prepared by the secretary of state's office and which are not certified, a fee per page in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204, and amendments thereto.

(b) Every limited liability company hereafter formed in this state shall pay to the secretary of state, at the time of filing its articles of organization, an application and recording fee of \$150.

(c) At the time of filing its application to do business, every foreign limited liability company shall pay to the secretary of state an application and recording fee of \$150.

(d) The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 36. On and after July 1, 2020, K.S.A. 2018 Supp. 17-76,136, as amended by section 35 of this act, is hereby amended to read as follows: 17-76,136. (a) The secretary of state shall charge each domestic and foreign limited liability company the following fees:

(1) A fee of \$20 for issuing or filing and indexing any of the following documents:  
 (A) A certificate of amendment of articles of organization;  
 (B) restated articles of organization;  
 (C) a certificate of cancellation, which fee shall be multiplied by the number of

series of the limited liability company named in the certificate of cancellation;

(D) a certificate of change of location of registered office or resident agent;  
 (E) a certificate of merger or consolidation;  
 (F) a certificate of division; and  
 (G) any certificate, affidavit, agreement or any other paper provided for in the Kansas revised limited liability company act, for which no different fee is specifically prescribed;

(2) a fee of \$7.50 for each certified copy plus a fee per page, if the secretary of state supplies the copies, in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204, and amendments thereto;

(3) a fee of \$7.50 for each certificate of good standing, including a certificate of good standing for a series of a limited liability company, and certificate of fact issued by the secretary of state;

(4) a fee of \$5 for a report of record search, but furnishing the following information shall not be considered a record search and no charge shall be made therefor: Name of the limited liability company and the address of its registered office; name and address of the resident agent; the state of the limited liability company's formation; the date of filing of its articles of organization or annual report; and date of expiration; and

(5) for photocopies of instruments on file or prepared by the secretary of state's office and which are not certified, a fee per page in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204, and amendments thereto.

(b) Every limited liability company hereafter formed in this state shall pay to the secretary of state, at the time of filing its articles of organization, an application and recording fee of \$150.

(c) At the time of filing its application to do business, every foreign limited liability company shall pay to the secretary of state an application and recording fee of \$150.

(d) The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 37. K.S.A. 17-76,138 is hereby amended to read as follows: 17-76,138. For purposes of any tax imposed by the state of Kansas or any instrumentality, agency or political subdivision of the state of Kansas, a domestic limited liability company ~~formed under this act or a foreign limited liability company~~ qualified to do business in the state of Kansas ~~as a foreign limited liability company~~ shall be classified as a partnership unless classified otherwise for federal income tax purposes, in which case the domestic or foreign limited liability company shall be classified in the same manner as it is classified for federal income tax purposes. For purposes of any tax imposed by the state of Kansas or any instrumentality, agency or political subdivision of the state of Kansas, a member or an assignee of a member of a domestic limited liability company ~~formed under this act or a foreign limited liability company~~ qualified to do business in the state of Kansas ~~as a foreign limited liability company~~ shall be treated as either a resident or nonresident partner unless classified otherwise for federal income tax purposes, in which case the member or assignee of a member shall have the same status as such member or assignee of a member has for federal income tax purposes.

Sec. 38. On and after July 1, 2020, K.S.A. 2018 Supp. 17-76,139 is hereby amended to read as follows: 17-76,139. (a) Every limited liability company organized and on and after July 1, 2020, each series thereof formed or in existence under the laws of this state shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company or series, as applicable, at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's or series' tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's or series' annual Kansas income tax return, or if applicable law does not prescribe a time for filing an annual Kansas income tax return for a series, the annual report for the series shall be filed at, and for purposes of this section its tax period shall be deemed to be, the time prescribed by law for filing the annual Kansas income tax return for the limited liability company to which the series is associated. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the following information:

- (1) The name of the limited liability company or series, as applicable; and
- (2) a list of the members owning at least 5% of the capital of the limited liability company or series, as applicable, with the post office address of each.

(b) Every foreign limited liability company shall make an annual report in writing to the secretary of state, stating the prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period. The annual report shall be filed at the time prescribed by law for filing the limited liability company's annual Kansas income tax return. The annual report shall be made on a form prescribed by the secretary of state. The report shall contain the name of the limited liability company.

(c) The annual report required by this section shall be executed by one or more authorized persons, and filed with the secretary of state. The execution of such annual report by a person who is authorized by ~~this~~ the Kansas revised limited liability company act to execute such annual report, upon filing such annual report with the secretary of state, constitutes an oath or affirmation, under penalties of perjury that, to the best of such person's knowledge and belief, the facts stated therein are true. At the time of filing the report, the limited liability company or series shall pay to the secretary of state an annual report fee in an amount equal to \$40.

(d) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required annual report fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to penalties for failure of a corporation to file an annual report or pay the required annual report fee, shall be applicable to the articles of organization of any domestic limited liability company, the certificate of designation of any series thereof, or to the authority of any foreign limited liability company which fails to file its annual report or pay the annual report fee within 90 days of the time prescribed in this section for filing and paying the same or, in the case of an annual report filing and fee received by mail,



postmarked within 90 days of the time for filing and paying the same. Whenever the articles of organization of a domestic limited liability company, the certificate of designation of a series thereof, or the authority of any foreign limited liability company are forfeited or canceled for failure to file an annual report or to pay the required annual report fee, the domestic limited liability company or the authority of a foreign limited liability company may be reinstated by filing a certificate of reinstatement, pursuant to K.S.A. 2018 Supp. 17-76,146, and amendments thereto, and the certificate of designation may be reinstated by filing a certificate of reinstatement, pursuant to section 4, and amendments thereto, and in each case, paying to the secretary of state all fees, including any penalties thereon, due to the state.

(e) No limited liability company or series shall be required to file its first annual report under ~~this the Kansas revised limited liability company act~~, or pay any annual report fee required to accompany such report, unless such limited liability company has filed its articles of organization or application for authority or the certificate of designation of such series has been filed at least six months prior to the last day of its tax period.

(f) All copies of applications for extension of the time for filing income tax returns submitted to the secretary of state pursuant to law shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234, and amendments thereto, a proper judicial order, or subsection (g). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed.

(g) A copy of such application shall be open to inspection by or disclosure to any person who was a member of such limited liability company or series during any part of the period covered by the extension.

Sec. 39. On and after July 1, 2020, K.S.A. 2018 Supp. 17-76,143 is hereby amended to read as follows: 17-76,143. (a) An operating agreement may establish or provide for the establishment of one or more designated series of members, managers ~~or~~ limited liability company interests ~~having~~ or assets. If an operating agreement so provides for the establishment or formation of one or more series, then a series may be formed by complying with this section. Any such series may have separate rights, powers or duties with respect to specified property or obligations of the limited liability company or profits and losses associated with specified property or obligations, and to the extent provided in the operating agreement, any such series may have a separate business purpose or investment objective. A series is formed by the filing of a certificate of designation in the office of the secretary of state. Other than pursuant to section 3, and amendments thereto, a series may not merge, convert, or consolidate pursuant to any section of the Kansas revised limited liability company act, the business entity transactions act, K.S.A. 2018 Supp. 17-78-101 et seq., and amendments thereto, or any other statute of this state.

(b) Notice of the limitation on liabilities of a series as referenced in subsection (c) shall be set forth in the articles of organization of the limited liability company. Notice in articles of organization of the limitation on liabilities of a series as referenced in subsection (c) shall be sufficient for all purposes of this subsection whether or not the limited liability company has formed any series when such notice is included in the articles of organization, and there shall be no requirement that any specific series of the

limited liability company be referenced in such notice. The fact that articles of organization that contain the foregoing notice of the limitation on liabilities of a series is on file in the office of the secretary of state shall constitute notice of such limitation on liabilities of a series.

(c) Notwithstanding anything to the contrary set forth in this section the Kansas revised limited liability company act or under other applicable law, in the event that an operating agreement establishes or provides for the establishment of one or more series, and if to the extent the records maintained for any such series account for the assets associated with such series separately from the other assets of the limited liability company, or any other series thereof, and if the operating agreement so provides, and if notice of the limitation on liabilities of a series as referenced in this subsection is set forth in the articles of organization of the limited liability company and if the limited liability company has filed a certificate of designation for each series which is to have limited liability under this section, then the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular such series shall be enforceable against the assets of such series only, and not against the assets of the limited liability company generally or any other series thereof, and, unless otherwise provided in the operating agreement, none of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the limited liability company generally or any other series thereof shall be enforceable against the assets of such series. The fact that the articles of organization contain the foregoing notice of the limitation on liabilities of a series and a certificate of designation for a series is on file in the office of the secretary of state shall constitute notice of such limitation on liabilities of a series. A series with limited liability shall be treated as a separate entity to the extent set forth in the articles of organization. Each series with limited liability may, in its own name, contract, hold title to assets, grant security interests, sue and be sued and otherwise conduct business and exercise the powers of a limited liability company under this act. The limited liability company and any of its series may elect to consolidate their operations as a single taxpayer to the extent permitted under applicable law, elect to work cooperatively, elect to contract jointly or elect to be treated as a single business for purposes of qualification to do business in this or any other state. Such elections shall not affect the limitation of liability set forth in this section except to the extent that the series have specifically accepted joint liability by contract.

(c) Except in the case of a foreign limited liability company that has adopted an assumed name pursuant to K.S.A. 2018 Supp. 17-7933, and amendments thereto, the name of the series with limited liability must contain the entire name of the limited liability company and be distinguishable from the names of the other series set forth in the articles of organization. In the case of a foreign limited liability company that has adopted an assumed name pursuant to K.S.A. 2018 Supp. 17-7933, and amendments thereto, the name of the series with limited liability must contain the entire name under which the foreign limited liability company has been admitted to transact business in this state.

(d) Upon the filing of the certificate of designation with the secretary of state setting forth the name of each series with limited liability, the series' existence shall begin, and copies of the filed certificate of designation marked with the filing date shall be conclusive evidence, except as against the state, that all conditions precedent

required to be performed have been complied with and that the series has been or shall be legally organized and formed under this act. If different from the limited liability company, the certificate of designation for each series shall list the names of the members if the series is member managed or the names of the managers if the series is manager managed. The name of a series with limited liability under subsection (b) may be changed by filing with the secretary of state a certificate of designation identifying the series whose name is being changed and the new name of such series. If not the same as the limited liability company, the names of the members of a member managed series or of the managers of a manager managed series may be changed by filing a new certificate of designation with the secretary of state. A series with limited liability under subsection (b) may be dissolved by filing with the secretary of state a certificate of designation identifying the series being dissolved or by the dissolution of the limited liability company as provided in subsection (m). Certificates of designation may be executed by the limited liability company or any manager, person or entity designated in the operating agreement for the limited liability company.

(c) A series of a limited liability company will be deemed to be in good standing as long as the limited liability company is in good standing.

(f) The resident agent and registered office for the limited liability company in Kansas shall serve as the agent and office for service of process in Kansas for each series.

(g) An operating agreement may provide for classes or groups of members or managers associated with a series having such relative rights, powers and duties as the operating agreement may provide, and may make provision for the future creation of additional classes or groups of members or managers associated with the series having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of members or managers associated with the series.

(h) A series may be managed by either the member or members associated with the series or by a manager or managers chosen by the members of such series, as provided in the operating agreement. Unless otherwise provided in an operating agreement, the management of a series shall be vested in the members associated with such series.

(i) An operating agreement may grant to all or certain identified members or managers or a specified class or group of the members or managers associated with a series the right to vote separately or with all or any class or group of the members or managers associated with the series, on any matter. An operating agreement may provide that any member or class or group of members associated with a series shall have no voting rights.

(j) Except to the extent modified in this section, the provisions of this act which are generally applicable to limited liability companies, their managers, members and transferees shall be applicable to each particular series with respect to the operation of such series.

(k) Except as otherwise provided in an operating agreement, any event under this act or in an operating agreement that causes a manager to cease to be a manager with respect to a series shall not, in itself, cause such manager to cease to be a manager of the limited liability company or with respect to any other series thereof.

(l) Except as otherwise provided in an operating agreement, any event under this act or in an operating agreement that causes a member to cease to be associated with a

series shall not, in itself, cause such member to cease to be associated with any other series or terminate the continued membership of a member in the limited liability company or cause the termination of the series, regardless of whether such member was the last remaining member associated with such series.

(m) Except to the extent otherwise provided in the operating agreement, a series may be dissolved and its affairs wound up without causing the dissolution of the limited liability company. The dissolution of a series established in accordance with subsection (b) shall not affect the limitation on liabilities of such series provided by subsection (b). A series is terminated and its affairs shall be wound up upon the dissolution of the limited liability company under article 76 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

(n) ~~If a limited liability company with the ability to establish a series does not register to do business in a foreign jurisdiction for itself and certain of its series, a series of a limited liability company may itself register to do business as a limited liability company in the foreign jurisdiction in accordance with the laws of the foreign jurisdiction. Neither the preceding sentences nor any provision pursuant thereto in an operating agreement, articles of organization or certificate of designation shall: Restrict a series or limited liability company on behalf of a series from agreeing in the operating agreement or otherwise that any or all of the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to the limited liability company generally or any other series thereof shall be enforceable against the assets of such series; or restrict a limited liability company from agreeing in the operating agreement or otherwise that any or all of the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to a series shall be enforceable against the assets of the limited liability company generally. Assets associated with a series may be held directly or indirectly, including in the name of such series, in the name of the limited liability company, through a nominee or otherwise. Records maintained for a series that reasonably identify its assets, including by specific listing, category, type, quantity, computational, or allocational formula or procedure, including a percentage or share of any asset or assets, or by any other method where the identity of such assets is objectively determinable, will be deemed to account for the assets associated with such series separately from the other assets of the limited liability company, or any other series thereof. As used in the Kansas revised limited liability company act, a reference to assets of a series includes assets associated with such series, a reference to assets associated with a series includes assets of such series, a reference to members or managers of a series includes members or managers associated with such series, and a reference to members or managers associated with a series includes members or managers of such series. The following shall apply to a series:~~

~~(1) A series may carry on any lawful business, purpose or activity, whether or not for profit, with the exception of the business of granting policies of insurance, assuming insurance risks, or banking as defined in K.S.A. 9-702, and amendments thereto. Unless otherwise provided in an operating agreement, a series shall have the power and capacity to, in its own name, contract, hold title to assets, including real, personal, and intangible property, grant liens and security interests, and sue and be sued.~~

~~(2) Except as otherwise provided by the Kansas revised limited liability company act, no member or manager of a series shall be obligated personally for any debt, obligation or liability of such series, whether arising in contract, tort or otherwise.~~

solely by reason of being a member or acting as manager of such series. Notwithstanding the preceding sentence, under an operating agreement or under another agreement, a member or manager may agree to be obligated personally for any or all of the debts, obligations and liabilities of one or more series.

(3) An operating agreement may provide for classes or groups of members or managers associated with a series having such relative rights, powers and duties as the operating agreement may provide, and may make provision for the future creation in the manner provided in the operating agreement of additional classes or groups of members or managers associated with such series having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of members or managers associated with such series. An operating agreement may provide for the taking of an action, including the amendment of the operating agreement, without the vote, consent or approval of any member or manager or class or group of members or managers, including an action to create under the provisions of the operating agreement a class or group of a series of limited liability company interests that was not previously outstanding. An operating agreement may provide that any member or class or group of members associated with a series shall have no voting rights.

(4) An operating agreement may grant to all or certain identified members or managers or a specified class or group of the members or managers associated with a series the right to vote separately or with all or any class or group of the members or managers associated with such series, on any matter. Voting by members or managers associated with a series may be on a per capita, number, financial interest, class, group or any other basis.

(5) Unless otherwise provided in an operating agreement, the management of a series shall be vested in the members associated with such series in proportion to the then-current percentage or other interest of members in the profits of such series owned by all of the members associated with such series, the decision of members owning more than 50% of such percentage or other interest in the profits controlling, except that if an operating agreement provides for the management of a series, in whole or in part, by a manager, the management of such series, to the extent so provided, shall be vested in the manager who shall be chosen in the manner provided in the operating agreement. The manager of a series shall also hold the offices and have the responsibilities accorded to the manager as set forth in an operating agreement. A series may have more than one manager. Subject to K.S.A. 17-76,105, and amendments thereto, a manager shall cease to be a manager with respect to a series as provided in an operating agreement. Except as otherwise provided in an operating agreement, any event under the Kansas revised limited liability company act or in an operating agreement that causes a manager to cease to be a manager with respect to a series shall not, in itself, cause such manager to cease to be a manager of the limited liability company or with respect to any other series thereof.

(6) Notwithstanding K.S.A. 17-76,109, and amendments thereto, but subject to subsections (c)(7) and (c)(10), and unless otherwise provided in an operating agreement, at the time a member of a series becomes entitled to receive a distribution with respect to such series, the member has the status of, and is entitled to all remedies available to, a creditor of such series, with respect to the distribution. An operating agreement may provide for the establishment of a record date with respect to allocations

and distributions with respect to a series.

(7) Notwithstanding K.S.A. 17-76.110(a), and amendments thereto, a limited liability company may make a distribution with respect to a series. A limited liability company shall not make a distribution with respect to a series to a member to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of such series, other than liabilities to members on account of their limited liability company interests with respect to such series and liabilities for which the recourse of creditors is limited to specified property of such series, exceed the fair value of the assets associated with such series, except that the fair value of property of such series that is subject to a liability for which the recourse of creditors is limited shall be included in the assets associated with such series only to the extent that the fair value of that property exceeds that liability. For purposes of the immediately preceding sentence, the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program. A member who receives a distribution in violation of this subsection, and who knew at the time of the distribution that the distribution violated this subsection, shall be liable to the series for the amount of the distribution. A member who receives a distribution in violation of this subsection, and who did not know at the time of the distribution that the distribution violated this subsection, shall not be liable for the amount of the distribution. Subject to K.S.A. 17-76.110(c), and amendments thereto, which shall apply to any distribution made with respect to a series under this subsection, this subsection shall not affect any obligation or liability of a member under an agreement or other applicable law for the amount of a distribution.

(8) Unless otherwise provided in the operating agreement, a member shall cease to be associated with a series and to have the power to exercise any rights or powers of a member with respect to such series upon the assignment of all of the member's limited liability company interest with respect to such series. Except as otherwise provided in an operating agreement, any event under the Kansas revised limited liability company act or an operating agreement that causes a member to cease to be associated with a series shall not, in itself, cause such member to cease to be associated with any other series or terminate the continued membership of a member in the limited liability company or cause the dissolution of the series, regardless of whether such member was the last remaining member associated with such series.

(9) Subject to K.S.A. 17-76.116, and amendments thereto, except to the extent otherwise provided in the operating agreement, a series may be dissolved and its affairs wound up without causing the dissolution of the limited liability company. The dissolution of a series shall not affect the limitation on liabilities of such series provided by this subsection (c). A series is dissolved and its affairs shall be wound up upon the dissolution of the limited liability company under K.S.A. 17-76.116, and amendments thereto, or otherwise upon the first to occur of the following:

- (A) At the time specified in the operating agreement;
- (B) upon the happening of events specified in the operating agreement;
- (C) unless otherwise provided in the operating agreement, upon the vote, consent or approval of members associated with such series who own  $\frac{2}{3}$  or more of the then-current percentage or other interest in the profits of such series of the limited liability company owned by all of the members associated with such series; or

(D) the dissolution of such series under subsection (c)(11).

(10) Notwithstanding K.S.A. 17-76,118(a), and amendments thereto, unless otherwise provided in the operating agreement, a manager associated with a series who has not wrongfully dissolved such series or, if none, the members associated with such series or a person consented to or approved by the members associated with such series, in either case, by members who own more than 50% of the then-current percentage or other interest in the profits of such series owned by all of the members associated with such series, may wind up the affairs of such series, but the district court, upon cause shown, may wind up the affairs of a series upon application of any member or manager associated with such series, or the member's personal representative or assignee, and in connection therewith, may appoint a liquidating trustee. The persons winding up the affairs of a series may, in the name of the limited liability company and for and on behalf of the limited liability company and such series, take all actions with respect to such series as are permitted under K.S.A. 17-76,118(b), and amendments thereto. The persons winding up the affairs of a series shall provide for the claims and obligations of such series and distribute the assets of such series as provided in K.S.A. 17-76,119, and amendments thereto, which section shall apply to the winding up and distribution of assets of a series. Actions taken in accordance with this subsection shall not affect the liability of members and shall not impose liability on a liquidating trustee.

(11) On application by or for a member or manager associated with a series, the district court may decree dissolution of such series whenever it is not reasonably practicable to carry on the business of such series in conformity with an operating agreement.

(12) For all purposes of the laws of the state of Kansas, a series is an association, regardless of the number of members or managers, if any, of such series.

(d) In order to form a series of a limited liability company, a certificate of designation must be filed in accordance with this subsection.

(1) (A) A certificate of designation shall set forth:

- (i) The name of the limited liability company; and
- (ii) the name of the series.

(B) A certificate of designation may include any other matter that the members of such series determine to include therein.

(C) A certificate of designation properly filed with the secretary of state prior to July 1, 2020, shall be deemed to comply with the requirements of this paragraph.

(2) A certificate of designation shall be executed in accordance with K.S.A. 2018 Supp. 17-7908(b), and amendments thereto, and shall be filed in the office of the secretary of state in accordance with K.S.A. 2018 Supp. 17-7910, and amendments thereto. A certificate of designation is not an amendment to the articles of organization of the limited liability company.

(3) A certificate of designation may be amended by filing a certificate of amendment thereto in the office of the secretary of state.

(A) The certificate of amendment shall set forth:

- (i) The name of the limited liability company;
- (ii) the name of the series; and
- (iii) the amendment to the certificate of designation.

(B) A certificate of designation properly filed with the secretary of state prior to July 1, 2020, that changed a previously filed certificate of designation shall be deemed

to be a certificate of amendment thereto for purposes of this paragraph.

(4) A manager of a series or, if there is no manager, then any member of a series who becomes aware that any statement in a certificate of designation filed with respect to such series was false when made, or that any matter described therein has changed making the certificate of designation false in any material respect, shall promptly amend the certificate of designation.

(5) A certificate of designation may be amended at any time for any other proper purpose.

(6) Unless otherwise provided in the Kansas revised limited liability company act or unless a later effective date or time, which shall be a date or time certain, is provided for in the certificate of amendment, a certificate of amendment shall be effective at the time of its filing with the secretary of state.

(7) A certificate of designation shall be canceled upon the cancellation of the articles of organization of the limited liability company named in the certificate of designation, or upon the filing of a certificate of cancellation of the certificate of designation, or upon the future effective date or time of a certificate of cancellation of the certificate of designation, or as provided in K.S.A. 17-76,139(d), and amendments thereto, or upon the filing of a certificate of merger or consolidation if the series is not the surviving or resulting series in a merger or consolidation or upon the future effective date or time of a certificate of merger or consolidation if the series is not the surviving or resulting series in a merger or consolidation. A certificate of cancellation of the certificate of designation may be filed at any time, and shall be filed, in the office of the secretary of state to accomplish the cancellation of a certificate of designation upon the dissolution of a series for which a certificate of designation was filed and completion of the winding up of such series.

(A) A certificate of cancellation of the certificate of designation shall set forth:

(i) The name of the limited liability company;

(ii) the name of the series;

(iii) the future effective date or time, which shall be a date or time certain, of cancellation if it is not to be effective upon the filing of the certificate of cancellation; and

(iv) any other information the person filing the certificate of cancellation of the certificate of designation determines.

(B) A certificate of designation properly filed with the secretary of state prior to July 1, 2020, that dissolved a series shall be deemed to be a certificate of cancellation thereto for purposes of this paragraph.

(8) A certificate of cancellation of the certificate of designation that is filed in the office of the secretary of state prior to the dissolution or the completion of winding up of a series may be corrected as an erroneously executed certificate of cancellation of the certificate of designation by filing with the office of the secretary of state a certificate of correction of such certificate of cancellation of the certificate of designation in accordance with K.S.A. 2018 Supp. 17-7912, and amendments thereto.

(9) The secretary of state shall not issue a certificate of good standing with respect to a series if the certificate of designation is canceled or the limited liability company has ceased to be in good standing.

(e) The name of each series as set forth in its certificate of designation:

(1) Shall include the name of the limited liability company, including any word,



abbreviation or designation required by K.S.A. 2018 Supp. 17-7920, and amendments thereto;

(2) may contain the name of a member or manager;

(3) must comply with the requirements of K.S.A. 2018 Supp. 17-7918, and amendments thereto, to the same extent as a covered entity; and

(4) may contain any word permitted by K.S.A. 2018 Supp. 17-7920, and amendments thereto, and may not contain any word prohibited to be included in the name of a limited liability company under Kansas law.

~~(f) If a foreign limited liability company, as permitted in the jurisdiction of its organization, has established a series having separate rights, powers or duties and has limited the liabilities of such series so that is registered to do business in this state in accordance with K.S.A. 2018 Supp. 17-7931, and amendments thereto, is governed by an operating agreement that establishes or provides for the establishment of a series of members, managers, limited liability company interests or assets having separate rights, powers or duties with respect to specified property or obligations of the foreign limited liability company or profits and losses associated with specified property or obligations, that fact shall be so stated on the application for registration as a foreign limited liability company. In addition, the foreign limited liability company shall state on such application whether the debts, liabilities and obligations incurred, contracted for or otherwise existing with respect to a particular series, if any, are enforceable against the assets of such series only, and not against the assets of the foreign limited liability company generally or any other series thereof, or so that and whether any of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the foreign limited liability company generally or any other series thereof are not shall be enforceable against the assets of such series, then the limited liability company, on behalf of itself or any of its series, or any of its series on their own behalf may register to do business in the state in accordance with the provisions of K.S.A. 2018 Supp. 17-7931, and amendments thereto. The limitation of liability shall be so stated on the application for admission as a foreign limited liability company and a certificate of designation shall be filed for each series being registered to do business in the state by the limited liability company. Unless otherwise provided in the operating agreement, the debts, liabilities and obligations incurred, contracted for or otherwise existing with respect to a particular series of such a foreign limited liability company shall be enforceable against the assets of such series only, and not against the assets of the foreign limited liability company generally or any other series thereof and none of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to such a foreign limited liability company generally or any other series thereof shall be enforceable against the assets of such series.~~

Sec. 40. K.S.A. 2018 Supp. 17-76,145 is hereby amended to read as follows: 17-76,145. (a) If an operating agreement provides the manner in which a dissolution may be revoked, it may be revoked in that manner and, unless an operating agreement prohibits revocation of dissolution, then notwithstanding the occurrence of an event set forth in subsections (a)(1) through (a)(4) of K.S.A. 17-76,116(a)(1) through (a)(4), and amendments thereto, the limited liability company shall not be dissolved and its affairs shall not be wound up if, prior to the filing of a certificate of cancellation with the secretary of state, the limited liability company is continued, effective as of the occurrence of such event, pursuant to the affirmative vote or written consent of all

~~remaining members of the limited liability company or the personal representative of the last remaining member of the limited liability company if there is no remaining member, and any other person whose approval is required under the operating agreement to revoke a dissolution pursuant to this section, except that if the dissolution was caused by a vote or written consent, the dissolution shall not be revoked unless each member and other person, or their respective personal representatives, who voted in favor of, or consented to, the dissolution has voted or consented in writing to continue the limited liability company.~~

(1) In the case of dissolution effected by the vote, consent or approval of the members or other persons, pursuant to such vote, consent or approval, and the vote, consent or approval of any members or other persons whose vote, consent or approval is required under the operating agreement to revoke a dissolution contemplated by this paragraph;

(2) in the case of dissolution under K.S.A. 17-76,116(a)(1) or (2), and amendments thereto, other than a dissolution effected by the vote, consent or approval of the members or other persons or the occurrence of an event that causes the last remaining member to cease to be a member, pursuant to such vote, consent or approval that, pursuant to the terms of the operating agreement, is required to amend the provision of the operating agreement effecting such dissolution, and the vote, consent or approval of any members or other persons whose vote, consent or approval is required under the operating agreement to revoke a dissolution contemplated by this paragraph; and

(3) in the case of dissolution effected by the occurrence of an event that causes the last remaining member to cease to be a member, pursuant to the vote, consent or approval of the personal representative of the last remaining member of the limited liability company or the assignee of all of the limited liability company interests in the limited liability company, and the vote, consent, or approval of any other person whose vote, consent or approval is required under the operating agreement to revoke a dissolution contemplated by this paragraph.

(b) If there is no remaining member of the limited liability company and the personal representative of the last remaining member or the assignee of all of the limited liability company interests in the limited liability company votes in favor of or consents to or approves the continuation of the limited liability company, such personal representative or such assignee, as applicable, shall be required to agree in writing to the admission of the personal representative of such member or its a nominee or designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member.

(c) The provisions of this section shall not be construed to limit the accomplishment of a revocation of dissolution by other means permitted by law.

Sec. 41. On and after July 1, 2020, K.S.A. 2018 Supp. 17-76,146 is hereby amended to read as follows: 17-76,146. (a) A domestic limited liability company whose articles of organization or a foreign limited liability company whose authority to do business has been canceled or forfeited pursuant to K.S.A. 2018 Supp. 17-7926(b), 17-7929(b) or 17-7934(f), and amendments thereto, or whose articles of organization or authority to do business has been forfeited pursuant to K.S.A. 17-76,139(d), and amendments thereto, may be reinstated by filing with the secretary of state a certificate of reinstatement accompanied by the payment of the fee required by K.S.A. 17-76,136(d), and amendments thereto, and payment of the annual report fees due under

K.S.A. 17-76,139(c), and amendments thereto, and all penalties and interest thereon due at the time of the cancellation or forfeiture of its articles of organization or authority to do business. The certificate of reinstatement shall set forth:

(1) The name of the limited liability company at the time its articles of organization or authority to do business was canceled or forfeited and, if such name is not available at the time of reinstatement, the name under which the limited liability company is to be reinstated;

(2) the address of the limited liability company's registered office in the state of Kansas and the name and address of the limited liability company's resident agent in the state of Kansas;

(3) a statement that the certificate of reinstatement is filed by one or more persons authorized to execute and file the certificate of reinstatement to reinstate the limited liability company; and

(4) any other matters the persons executing the certificate of reinstatement determine to include therein.

(b) The certificate of reinstatement shall be deemed to be an amendment to the articles of organization or application for registration of the limited liability company, and the limited liability company shall not be required to take any further action to amend its articles of organization or application for registration under K.S.A. 17-7674 or K.S.A. 2018 Supp. 17-7935, and amendments thereto, with respect to the matters set forth in the certificate of reinstatement.

(c) Upon the filing of a certificate of reinstatement, a limited liability company and all series thereof that have been formed and whose certificate of designation has not been canceled prior to the cancellation of the articles of organization shall be reinstated with the same force and effect as if its articles of organization or authority to do business had not been canceled or forfeited pursuant to K.S.A. 17-76,139(d) or K.S.A. 2018 Supp. 17-7926(b), 17-7929(b) or 17-7934(f), and amendments thereto. Such reinstatement shall validate all contracts, acts, matters and things made, done and performed by the limited liability company, its members, managers, employees and agents during the time when its articles of organization or authority to do business was canceled or forfeited pursuant to K.S.A. 17-76,139(d) or K.S.A. 2018 Supp. 17-7926(b), 17-7929(b) or 17-7934(f), and amendments thereto, with the same force and effect and to all intents and purposes as if the articles of organization or authority to do business had remained in full force and effect. All real and personal property, and all rights and interests, which belonged to the limited liability company at the time its articles of organization or authority to do business was canceled or forfeited pursuant to K.S.A. 17-76,139(d) or K.S.A. 2018 Supp. 17-7926(b), 17-7929(b) or 17-7934(f), and amendments thereto, or which were acquired by the limited liability company following the cancellation or forfeiture of its articles of organization or authority to do business pursuant to K.S.A. 17-76,139(d) or K.S.A. 2018 Supp. 17-7926(b), 17-7929(b) or 17-7934(f), and amendments thereto, and which were not disposed of prior to the time of its reinstatement, shall be vested in the limited liability company after its reinstatement as fully as they were held by the limited liability company at, and after, as the case may be, the time its articles of organization or authority to do business was canceled or forfeited pursuant to K.S.A. 17-76,139(d) or K.S.A. 2018 Supp. 17-7926(b), 17-7929(b) or 17-7934(f), and amendments thereto. After its reinstatement, the limited liability company shall be as exclusively liable for all contracts, acts, matters and things made,

done or performed in its name and on its behalf by its members, managers, employees and agents prior to its reinstatement as if its articles of organization or authority to do business had at all times remained in full force and effect.

Sec. 42. K.S.A. 2018 Supp. 17-7904 is hereby amended to read as follows: 17-7904. ~~(a)~~ The following documents related to limited liability companies shall be filed with the secretary of state:

~~(1)~~~~(a)~~ Articles of organization as set forth in K.S.A. 17-7673 and K.S.A. 2018 Supp. 17-7673a, and amendments thereto;

~~(2)~~~~(b)~~ professional articles of organization as set forth in K.S.A. 17-7673 and K.S.A. 2018 Supp. 17-7673a, and amendments thereto;

~~(3)~~~~(c)~~ series limited liability company articles of organization as set forth in K.S.A. 2018 Supp. 17-76,143, and amendments thereto;

~~(4)~~~~(d)~~ foreign limited liability company application for authority as set forth in K.S.A. 2018 Supp. 17-7931, and amendments thereto;

~~(5)~~~~(e)~~ foreign series limited liability company application for admission to transact business as set forth in K.S.A. 2018 Supp. 17-7931 and K.S.A. 2018 Supp. 17-76,143, and amendments thereto;

~~(6)~~~~(f)~~ annual report as set forth in K.S.A. 17-76,139, and amendments thereto;

~~(7)~~~~(g)~~ certificate of amendment as set forth in K.S.A. 17-7674 and K.S.A. 2018 Supp. 17-7674a, and amendments thereto;

~~(8)~~~~(h)~~ restated articles of organization as set forth in K.S.A. 17-7680, and amendments thereto;

~~(9)~~~~(i)~~ series certificate of designation as set forth in K.S.A. 2018 Supp. 17-76,143, and amendments thereto;

~~(10)~~~~(j)~~ certificate of amendment or termination to certificate of merger or consolidation as set forth in K.S.A. 17-7681, and amendments thereto;

~~(11)~~~~(k)~~ certificate of correction as set forth in K.S.A. 2018 Supp. 17-7912, and amendments thereto;

~~(12)~~~~(l)~~ foreign certificate of correction as set forth in K.S.A. 2018 Supp. 17-7912, and amendments thereto;

~~(13)~~~~(m)~~ change of registered office or resident agent as set forth in K.S.A. 2018 Supp. 17-7926, 17-7927, 17-7928 and 17-7929, and amendments thereto;

~~(14)~~~~(n)~~ mergers as set forth in K.S.A. 17-7681, and amendments thereto;

~~(15)~~~~(o)~~ reinstatement as set forth in K.S.A. 17-76,139, and amendments thereto;

~~(16)~~~~(p)~~ certificate of cancellation as set forth in K.S.A. 17-7675, and amendments thereto; ~~and~~

~~(17)~~~~(q)~~ foreign cancellation of registration as set forth in K.S.A. 2018 Supp. 17-7936, and amendments thereto; ~~and~~

~~(r)~~ certificate of division as set forth in section 2, and amendments thereto.

~~(b)~~ ~~This section shall take effect on and after January 1, 2015.~~

Sec. 43. On and after July 1, 2020, K.S.A. 2018 Supp. 17-7904, as amended by section 42 of this act, is hereby amended to read as follows: 17-7904. The following documents related to limited liability companies shall be filed with the secretary of state:

(a) Articles of organization as set forth in K.S.A. 17-7673 and K.S.A. 2018 Supp. 17-7673a, and amendments thereto;

(b) professional articles of organization as set forth in K.S.A. 17-7673 and K.S.A.

2018 Supp. 17-7673a, and amendments thereto;

(c) series limited liability company articles of organization as set forth in K.S.A. 2018 Supp. 17-76,143, and amendments thereto;

(d) foreign limited liability company application for authority as set forth in K.S.A. 2018 Supp. 17-7931, and amendments thereto;

(e) foreign series limited liability company application for admission to transact business as set forth in K.S.A. 2018 Supp. 17-7931 and K.S.A. 2018 Supp. 17-76,143, and amendments thereto;

(f) annual report as set forth in K.S.A. 17-76,139, and amendments thereto;

(g) certificate of amendment as set forth in K.S.A. 17-7674 and K.S.A. 2018 Supp. 17-7674a and 17-76,143, and amendments thereto;

(h) restated articles of organization as set forth in K.S.A. 17-7680, and amendments thereto;

(i) series certificate of designation as set forth in K.S.A. 2018 Supp. 17-76,143, and amendments thereto;

(j) certificate of amendment or termination to certificate of merger or consolidation as set forth in K.S.A. 17-7681 or section 3, and amendments thereto;

(k) certificate of correction as set forth in K.S.A. 2018 Supp. 17-7912, and amendments thereto;

(l) foreign certificate of correction as set forth in K.S.A. 2018 Supp. 17-7912, and amendments thereto;

(m) change of registered office or resident agent as set forth in K.S.A. 2018 Supp. 17-7926, 17-7927, 17-7928 and 17-7929, and amendments thereto;

(n) mergers or consolidations as set forth in K.S.A. 17-7681 or section 3, and amendments thereto;

(o) reinstatement as set forth in K.S.A. 17-76,139 or section 4, and amendments thereto;

(p) certificate of cancellation as set forth in K.S.A. 17-7675 or K.S.A 2018 Supp. 17-76,143, and amendments thereto;

(q) foreign cancellation of registration as set forth in K.S.A. 2018 Supp. 17-7936, and amendments thereto; and

(r) certificate of division as set forth in section 2, and amendments thereto.

Sec. 44. K.S.A. 2018 Supp. 17-7915 is hereby amended to read as follows: 17-7915. Service of process in any action against a covered entity or a series of a limited liability company shall be made in the manner described in K.S.A. 60-304, and amendments thereto.

This section shall take effect on and after January 1, 2015.

Sec. 45. K.S.A. 2018 Supp. 17-7916 is hereby amended to read as follows: 17-7916. (a) Unless otherwise provided in a covered entity's public organic document or organic rules, any person may sign any document filed with the secretary of state pursuant to this act by an attorney-in-fact, but a power of attorney to sign a certificate relating to the admission of a general partner must describe the admission. Powers of attorney relating to the signing of a document by an attorney-in-fact need not be filed in the office of the secretary of state but must be retained by the covered entity.

(b) For all purposes of the laws of the state of Kansas, unless otherwise provided in a covered entity's public organic document or organic rules, a power of attorney with respect to ~~matters relating to the formation, internal affairs or termination of a covered~~

~~entity or granted by a person as a member, incorporator, partner or limited partner of a covered entity, or by an assignee of an interest in a covered entity or by a person seeking to become a member, incorporator, partner, limited partner or an assignee of an interest in a covered entity any document filed with the secretary of state pursuant to the business entity standard treatment act, K.S.A. 2018 Supp. 17-7901 et seq. and amendments thereto, shall be irrevocable if the power of attorney states that it is irrevocable and it is coupled with an interest sufficient in law to support an irrevocable power. Such irrevocable power of attorney, unless otherwise provided therein, or in a covered entity's public organic document or organic rules, shall not be affected by the subsequent death, disability, incapacity, dissolution, termination of existence or bankruptcy of, or any other event concerning, the principal. A power of attorney with respect to matters relating to the organization, internal affairs or termination of a covered entity or granted by a person as a member or an assignee of an interest in a covered entity or by a person seeking to become a member, incorporator, partner or limited partner or an assignee of an interest in a covered entity and, in either case, granted to the covered entity, a manager or member thereof, or any of their respective officers, directors, managers, members, partners, trustees, employees or agents shall be deemed coupled with an interest sufficient in law to support an irrevocable power.~~

Sec. 46. On and after July 1, 2020, K.S.A. 2018 Supp. 17-7918 is hereby amended to read as follows: 17-7918. (a) Except as otherwise provided in subsection (b), the names of all covered entities, except for banks, savings and loan associations and savings banks, must be distinguishable on the records of the office of the secretary of state from:

- (1) The name of any other covered entity or foreign covered entity;
- (2) the name of any non-covered entity, other than a general partnership, that has filed with the office of the secretary of state, including a series of a limited liability company for which a certificate of designation has been filed;
- (3) any entity name reserved pursuant to K.S.A. 2018 Supp. 17-7923, and amendments thereto; and
- (4) the name of any other covered entity, series of a limited liability company or foreign covered entity whose public organic documents, certificate of designation or foreign registration has been canceled or forfeited for any reason within the previous one year.

(b) A covered entity may register under any name that is not distinguishable on the records of the office of the secretary of state from the name of any other covered entity or non-covered entity that has filed with the office of the secretary of state with the written consent of the other entity, which written consent shall be filed with the secretary of state.

(c) A covered entity may use a name that is not distinguishable from a name described in subsection (a)(1) through (3) if the entity delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the right of the entity to use the name in this state.

Sec. 47. On and after July 1, 2020, K.S.A. 2018 Supp. 17-7923 is hereby amended to read as follows: 17-7923. (a) The exclusive right to the use of an entity name or, as applicable, the name of a series of a limited liability company, may be reserved by:

- (1) Any person intending to organize a covered entity under the laws of this state;
- (2) any domestic limited liability company or any person intending to organize a

domestic limited liability company, intending to file a certificate of designation to form a series of any such limited liability company;

(3) any domestic covered entity intending to change its name or intending to change the name of a series for which a certificate of designation has been filed;

~~(4)~~ any foreign covered entity intending to make application for a certificate of authority to transact business in this state;

~~(4)~~~~(5)~~ any foreign covered entity authorized to transact business in this state, and intending to change its name; and

~~(5)~~~~(6)~~ any person intending to organize a foreign covered entity, and intending to have such entity make application for a certificate of authority to transact business in this state.

(b) The reservation shall be made by filing with the secretary of state an application to reserve a specific covered entity name or the name of a series of a domestic limited liability company, executed by the applicant. The reservation may be filed by telefacsimile communication as prescribed by K.S.A. 2018 Supp. 17-7914, and amendments thereto. If the secretary of state finds that the name is available, the secretary of state shall reserve the same for the exclusive use of the applicant for a period of 120 days.

(c) The right to exclusive use of a specified entity name or the name of a series of a domestic limited liability company, reserved pursuant to this section, may be transferred to any other person or covered entity by filing in the office of the secretary of state, a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee.

~~(d) This section shall take effect on and after January 1, 2015.~~

Sec. 48. K.S.A. 2018 Supp. 17-7929 is hereby amended to read as follows: 17-7929. (a) The resident agent of one or more covered entities may resign without appointing a successor by paying a fee if authorized by law, as provided by K.S.A. 2018 Supp. 17-7910, and amendments thereto, and filing a certificate of resignation, with the secretary of state stating that the resident agent resigns as resident agent for the covered entities identified in the certificate, but such resignation shall not become effective until 30 days after the certificate is filed. The certificate shall be executed by the resident agent, shall contain a statement that written notice of resignation was given to each affected covered entity at least 30 days prior to the filing of the certificate by mailing or delivering such notice to the covered entity at its address last known to the resident agent and shall set forth the date of such notice.

(b) After receipt of the notice of the resignation of its resident agent, provided for in subsection (a), any covered entity for which such resident agent was acting shall obtain and designate a new resident agent to take the place of the resident agent so resigning. Such covered entity shall pay a fee if authorized by law, as provided by K.S.A. 2018 Supp. 17-7910, and amendments thereto, and file with the secretary of state a certificate setting forth the name and address of the successor resident agent. Upon such filing, the successor resident agent shall become the resident agent of such covered entity and the successor resident agent's address, as stated in such certificate, shall become the address of the covered entity's registered office in this state. If such covered entity fails to obtain and designate a new resident agent as aforesaid, prior to the expiration of the period of 60 days after the filing by the resident agent of the certificate of resignation, the secretary of state shall declare the entity's organizing

documents forfeited.

(c) After the resignation of the resident agent shall have become effective, as provided in subsection (a), and if no new resident agent shall have been obtained and designated in the time and manner provided for in subsection (b), service of legal process against the covered entity, or in the case of a domestic or foreign limited liability company, any series of such limited liability company, for which the resigned resident agent had been acting shall thereafter be upon the secretary of state in the manner prescribed by K.S.A. 60-304, and amendments thereto.

(d) Any covered entity affected by the filing of a certificate under this section shall not be required to take any further action to amend its public organic documents to reflect a change of registered office or resident agent.

Sec. 49. On and after July 1, 2020, K.S.A. 2018 Supp. 17-7933 is hereby amended to read as follows: 17-7933. (a) Except as otherwise provided in subsection (b), the names of all foreign covered entities must be distinguishable on the records of the office of the secretary of state from:

- (1) The name of any covered entity or foreign covered entity;
- (2) the name of any non-covered entity, other than a general partnership, that has filed with the secretary of state, including a series of a limited liability company for which a certificate of designation has been filed;
- (3) any entity name reserved pursuant to K.S.A. 2018 Supp. 17-7923, and amendments thereto; and
- (4) the name of any other covered entity, series of a limited liability company or foreign covered entity whose public organic document, certificate of designation or foreign registration has been canceled or forfeited for any reason within the previous one year.

(b) A foreign covered entity may register under any name that is not distinguishable on the records of the office of the secretary of state from the name of any other covered entity or non-covered entity that has filed with the office of the secretary of state:

- (1) With the written consent of the other entity, which written consent shall be filed with the secretary of state; or
- (2) if the foreign covered entity indicates, as a means of identification and in its advertising within this state, the state in which the foreign covered entity was formed, and the application sets forth this condition.

Sec. 50. K.S.A. 2018 Supp. 60-304 is hereby amended to read as follows: 60-304. As used in this section, "serving" means making service by any of the methods described in K.S.A. 60-303, and amendments thereto, unless a specific method of making service is prescribed in this section. Except for service by publication under K.S.A. 60-307, and amendments thereto, service of process under this article must be made as follows:

(a) *Individual*. On an individual other than a minor or a disabled person, by serving the individual or by serving an agent authorized by appointment or by law to receive service of process. If the agent is one designated by statute to receive service, such further notice as the statute requires must be given. Service by return receipt delivery must be addressed to an individual at the individual's dwelling or usual place of abode and to an authorized agent at the agent's usual or designated address. If the sheriff, party or party's attorney files a return of service stating that the return receipt delivery to the individual at the individual's dwelling or usual place of abode was refused or unclaimed



and that a business address is known for the individual, the sheriff, party or party's attorney may complete service by return receipt delivery, addressed to the individual at the individual's business address.

(b) *Minor*. On a minor, by serving:

(1) The minor; and

(2) either:

(A) The minor's guardian or conservator, if the minor has one within this state;

(B) the minor's father, mother or other person having the minor's care or control or with whom the minor resides; or

(C) if service cannot be made as specified in paragraphs (A) or (B), as provided by order of the court.

Service by return receipt delivery must be addressed to an individual at the individual's dwelling or usual place of abode and to a corporate guardian or conservator at the guardian's or conservator's usual place of business.

(c) *Disabled person*. On a disabled person, as defined in K.S.A. 77-201, and amendments thereto, by:

(1) Serving:

(A) The person's guardian, conservator or a competent adult member of the person's family with whom the person resides;

(B) if the person resides in an institution, the director or chief executive officer of the institution; or

(C) if service cannot be made as specified in paragraphs (A) or (B), as provided by order of the court; and

(2) unless the court otherwise orders, serving the disabled person.

Service by return receipt delivery must be addressed to the director or chief executive officer of an institution at the institution, to any other individual at the individual's dwelling or usual place of abode, and to a corporate guardian or conservator at the guardian's or conservator's usual place of business.

(d) *Governmental bodies*. On:

(1) A county, by serving one of the county commissioners, the county clerk or the county treasurer;

(2) a township, by serving the clerk or a trustee;

(3) a city, by serving the clerk or the mayor;

(4) any other public corporation, body politic, district or authority, by serving the clerk or secretary or, if the clerk or secretary is not found, any officer, director or manager thereof; and

(5) the state or any governmental agency of the state, when subject to suit, by serving the attorney general or an assistant attorney general.

Service by return receipt delivery must be addressed to the appropriate official at the official's governmental office. Income withholding orders for support and orders of garnishment of earnings of state officers and employees must be served on the state or governmental agency of the state in the manner provided by K.S.A. 60-723, and amendments thereto.

(e) *Corporations, domestic or foreign limited liability companies, domestic or foreign limited partnerships, domestic or foreign limited liability partnerships and partnerships*. On a domestic or foreign corporation, domestic or foreign limited liability company, domestic or foreign limited partnership, domestic or foreign limited liability

partnership or a partnership or other unincorporated association that is subject to suit in a common name, by:

- (1) Serving an officer, manager, partner or a resident, managing or general agent;
- (2) leaving a copy of the summons and petition or other document at any of its business offices with the person having charge thereof; or
- (3) serving any agent authorized by appointment or by law to receive service of process, and if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.

Service by return receipt delivery on an officer, partner or agent must be addressed to the person at the person's usual place of business.

(f) *Resident agent for a corporation, limited liability company, limited partnership or limited liability partnership.* A domestic corporation, domestic limited liability company or domestic limited partnership, and, if it is authorized to transact business or transacts business without authority in this state, a foreign corporation, foreign limited liability company or foreign limited partnership irrevocably authorizes the secretary of state as its agent to accept on its behalf service of process, or any notice or demand required or permitted by law to be served on it, when: (1) It fails to appoint or maintain in this state a resident agent on whom service may be had; or (2) its resident agent cannot with reasonable diligence be found at the registered office in this state. Service on the secretary of state of any process, notice or demand must be made by delivering to the secretary of state, by personal service or by return receipt delivery, the original and two copies of the process and two copies of the petition, notice or demand. When any process, notice or demand is served on the secretary of state, the secretary must promptly forward a copy of it by return receipt delivery, addressed to the corporation, limited liability company or limited partnership at its principal office as it appears in the records of the secretary of state, or at the registered or principal office of the corporation, limited liability company or limited partnership in the state of its incorporation or formation. The secretary of state must keep a record of all processes, notices and demands served on the secretary under this subsection, and must record the time of the service and the action taken by the secretary. A fee of \$40 must be paid to the secretary of state by the party requesting the service of process, to cover the cost of serving process, except the secretary of state may waive the fee for state agencies. The fee must not be included in or paid from any deposit as security for costs or the docket fee required by K.S.A. 60-2001 or 61-4001, and amendments thereto.

(g) *Insurance companies or associations.* Service of summons or other process on any insurance company or association, organized under the laws of this state, may also be made by serving the commissioner of insurance in the same manner as provided for service on foreign insurance companies or associations.

(h) *Service on an employee.* If a party or a party's agent or attorney files an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto, that to the best of the affiant's or declarant's knowledge and belief the person to be served is employed in this state, and is a nonresident or that the place of residence of the person is unknown, the affiant or declarant may request that the sheriff or other duly authorized person direct an officer, partner, managing or general agent or the individual having charge of the place at which the person to be served is employed, to make the person available to permit the sheriff or other duly authorized person to serve the summons or other process.

(i) Service on a series of a limited liability company. On a series established under a domestic or foreign limited liability company by service on such domestic or foreign limited liability company in the same manner as described in subsections (e) and (f), but if service is made on the resident, managing, general or other agent of the limited liability company upon which service may be made or the secretary of state on behalf of any such series, such service shall include the name of the limited liability company and the name of such series.

Sec. 51. On and after July 1, 2020, K.S.A. 2018 Supp. 84-1-201 is hereby amended to read as follows: 84-1-201. (a) Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other articles of the uniform commercial code that apply to particular articles or parts thereof, have the meanings stated.

(b) Subject to definitions contained in other articles of the uniform commercial code that apply to particular articles or parts thereof:

(1) "Action," in the sense of a judicial proceeding, includes recoupment, counterclaim, set-off, suit in equity, and any other proceeding in which rights are determined.

(2) "Aggrieved party" means a party entitled to pursue a remedy.

(3) "Agreement," as distinguished from "contract," means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade as provided in K.S.A. 2018 Supp. 84-1-303, and amendments thereto.

(4) "Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company.

(5) "Bearer" means a person in control of a negotiable electronic document of title or a person in possession of a negotiable instrument, negotiable tangible document of title, or certificated security that is payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods. The term does not include a warehouse receipt.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the trier of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under article 2 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, may be a buyer in ordinary course of business. "Buyer in ordinary course of business" does not include a person that acquires goods in a transfer in bulk or as security for or in total or

partial satisfaction of a money debt.

(10) "Conspicuous," with reference to a term, means so written, displayed, or presented that a reasonable person against which it is to operate ought to have noticed it. Whether a term is "conspicuous" or not is a decision for the court. Conspicuous terms include the following:

(A) A heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and

(B) language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.

(11) "Consumer" means an individual who enters into a transaction primarily for personal, family, or household purposes.

(12) "Contract," as distinguished from "agreement," means the total legal obligation that results from the parties' agreement as determined by the uniform commercial code as supplemented by any other applicable laws.

(13) "Creditor" includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.

(14) "Defendant" includes a person in the position of defendant in a counterclaim, cross-claim, or third-party claim.

(15) "Delivery," with respect to an electronic document of title means voluntary transfer of control and with respect to an instrument, a tangible document of title, or chattel paper, means voluntary transfer of possession.

(16) "Document of title" means a record (i) that in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold, and dispose of the record and the goods the record covers and (ii) that purports to be issued by or addressed to a bailee and to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass. The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt and order for delivery of goods. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document of title evidenced by a record consisting of information that is inscribed on a tangible medium.

(17) "Fault" means a default, breach, or wrongful act or omission.

(18) "Fungible goods" means:

(A) Goods of which any unit, by nature or usage of trade, is the equivalent of any other like unit; or

(B) goods that by agreement are treated as equivalent.

(19) "Genuine" means free of forgery or counterfeiting.

(20) "Good faith," except as otherwise provided in article 5 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(21) "Holder" means:

(A) The person in possession of a negotiable instrument that is payable either to

bearer or to an identified person that is the person in possession; or

(B) the person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession; or

(C) the person in control of a negotiable electronic document of title.

(22) "Insolvency proceeding" includes an assignment for the benefit of creditors or other proceeding intended to liquidate or rehabilitate the estate of the person involved.

(23) "Insolvent" means:

(A) Having generally ceased to pay debts in the ordinary course of business other than as a result of bona fide dispute;

(B) being unable to pay debts as they become due; or

(C) being insolvent within the meaning of federal bankruptcy law.

(24) "Money" means a medium of exchange currently authorized or adopted by a domestic or foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries.

(25) "Organization" means a person other than an individual.

(26) "Party," as distinguished from "third party," means a person that has engaged in a transaction or made an agreement subject to the uniform commercial code.

(27) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, ~~or~~ any other legal or commercial entity, or any series of any of the foregoing.

(28) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into.

(29) "Purchase" means taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property.

(30) "Purchaser" means a person that takes by purchase.

(31) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(32) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(33) "Representative" means a person empowered to act for another, including an agent, an officer of a corporation or association, and a trustee, executor, or administrator of an estate.

(34) "Right" includes remedy.

(35) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. "Security interest" includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto. "Security interest" does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under K.S.A. 84-2-401 and amendments thereto, but a buyer may also

acquire a "security interest" by complying with article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto. Except as otherwise provided in K.S.A. 84-2-505, and amendments thereto, the right of a seller or lessor of goods under article 2 or 2a of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, to retain or acquire possession of the goods is not a "security interest," but a seller or lessor may also acquire a "security interest" by complying with article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under K.S.A. 84-2-401, and amendments thereto, is limited in effect to a reservation of a "security interest." Whether a transaction in the form of a lease creates a "security interest" is determined pursuant to K.S.A. 2018 Supp. 84-1-203, and amendments thereto.

(36) "Send" in connection with a writing, record, or notice means:

(A) To deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances; or

(B) in any other way to cause to be received any record or notice within the time it would have arrived if properly sent.

(37) "Signed" includes using any symbol executed or adopted with present intention to adopt or accept a writing.

(38) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(39) "Surety" includes a guarantor or other secondary obligor.

(40) "Term" means a portion of an agreement that relates to a particular matter.

(41) "Unauthorized signature" means a signature made without actual, implied, or apparent authority. The term includes a forgery.

(42) "Warehouse receipt" means a document of title issued by a person engaged in the business of storing goods for hire.

(43) "Writing" includes printing, typewriting, or any other intentional reduction to tangible form. "Written" has a corresponding meaning.

Sec. 52. On and after July 1, 2020, K.S.A. 2018 Supp. 84-9-102 is hereby amended to read as follows: 84-9-102. (a) **Article 9 definitions.** In this article:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance, (A) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (B) for services rendered or to be rendered, (C) for a policy of insurance issued or to be issued, (D) for a secondary obligation incurred or to be incurred, (E) for energy provided or to be provided, (F) for the use or hire of a vessel under a charter or other contract, (G) arising out of the use of a credit or charge card or information contained on or for use with the card, or (H) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include: (A) Rights to payment evidenced

by chattel paper or an instrument, (B) commercial tort claims, (C) deposit accounts, (D) investment property, (E) letter-of-credit rights or letters of credit, or (F) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) "Accounting," except as used in "accounting for," means a record:

(A) Authenticated by a secured party;

(B) indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products: (A) Which secures payment or performance of an obligation for:

(i) Goods or services furnished in connection with a debtor's farming operation; or

(ii) rent on real property leased by a debtor in connection with its farming operation;

(B) which is created by statute in favor of a person that:

(i) In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property. Agricultural liens shall not include statutory liens.

(6) "As-extracted collateral" means: (A) Oil, gas, or other minerals that are subject to a security interest that:

(i) Is created by a debtor having an interest in the minerals before extraction; and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(A) To sign; or

(B) with present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol or process.

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this subsection, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include (i) charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

(A) Proceeds to which a security interest attaches;  
 (B) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(C) goods that are the subject of a consignment.

(13) "Commercial tort claim" means a claim arising in tort with respect to which:

(A) The claimant is an organization; or

(B) the claimant is an individual and the claim:

(i) Arose in the course of the claimant's business or profession; and

(ii) does not include damages arising out of personal injury to or the death of an individual.

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(17) "Commodity intermediary" means a person that:

(A) Is registered as a futures commission merchant under federal commodities law;  
 or

(B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) "Communicate" means:

(A) To send a written or other tangible record;

(B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.



- (19) "Consignee" means a merchant to which goods are delivered in a consignment.
- (20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and: (A) The merchant:
- (i) Deals in goods of that kind under a name other than the name of the person making delivery;
  - (ii) is not an auctioneer; and
  - (iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;
- (B) with respect to each delivery, the aggregate value of the goods is \$1,000 or more at the time of delivery;
- (C) the goods are not consumer goods immediately before delivery; and
- (D) the transaction does not create a security interest that secures an obligation.
- (21) "Consignor" means a person that delivers goods to a consignee in a consignment.
- (22) "Consumer debtor" means a debtor in a consumer transaction.
- (23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.
- (24) "Consumer-goods transaction" means a consumer transaction in which:
- (A) An individual incurs an obligation primarily for personal, family, or household purposes; and
  - (B) a security interest in consumer goods secures the obligation.
- (25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.
- (26) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.
- (27) "Continuation statement" means an amendment of a financing statement which:
- (A) Identifies, by its file number, the initial financing statement to which it relates; and
  - (B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.
- (28) "Debtor" means:
- (A) A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;
  - (B) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or
  - (C) a consignee.
- (29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.
- (30) "Document" means a document of title or a receipt of the type described in subsection (b) of K.S.A. 84-7-201(b), and amendments thereto.
- (31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) "Equipment" means goods other than inventory, farm products, or consumer goods.

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are: (A) Crops grown, growing, or to be grown, including:

(i) Crops produced on trees, vines, and bushes; and

(ii) aquatic goods produced in aquacultural operations;

(B) livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) supplies used or produced in a farming operation; or

(D) products of crops or livestock in their unmanufactured states.

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) "File number" means the number assigned to an initial financing statement pursuant to ~~subsection (a)~~ of K.S.A. 2018 Supp. 84-9-519(a), and amendments thereto.

(37) "Filing office" means an office designated in K.S.A. 2018 Supp. 84-9-501, and amendments thereto, as the place to file a financing statement.

(38) "Filing-office rule" means a rule adopted pursuant to K.S.A. 2018 Supp. 84-9-526, and amendments thereto.

(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying ~~subsections (a) and (b)~~ of K.S.A. 2018 Supp. 84-9-502(a) and (b), and amendments thereto. The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(43) Reserved.

(44) "Goods" means all things that are movable when a security interest attaches. The term includes (A) fixtures, (B) standing timber that is to be cut and removed under a conveyance or contract for sale, (C) the unborn young of animals, (D) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (E) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (A) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (B) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts,

chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(47) "Instrument" means a negotiable instrument, a writing that would otherwise qualify as a certificate of deposit as defined by K.S.A. 84-3-104(j), and amendments thereto, but for the fact that the writing contains a limitation on transfer, or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(48) "Inventory" means goods, other than farm products, which:

- (A) Are leased by a person as lessor;
- (B) are held by a person for sale or lease or to be furnished under a contract of service;
- (C) are furnished by a person under a contract of service; or
- (D) consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(50) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized.

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) "Lien creditor" means:

- (A) A creditor that has acquired a lien on the property involved by attachment, levy, or the like;
- (B) an assignee for benefit of creditors from the time of assignment;
- (C) a trustee in bankruptcy from the date of the filing of the petition; or
- (D) a receiver in equity from the time of appointment.

(53) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The term

includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under title 42 of the United States code.

(54) "Manufactured-home transaction" means a secured transaction:

(A) That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(56) "New debtor" means a person that becomes bound as a debtor under K.S.A. 2018 Supp. 84-9-203(d), and amendments thereto, by a security agreement previously entered into by another person.

(57) "New value" means (A) money, (B) money's worth in property, services, or new credit, or (C) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) "Noncash proceeds" means proceeds other than cash proceeds.

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (A) owes payment or other performance of the obligation, (B) has provided property other than the collateral to secure payment or other performance of the obligation, or (C) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) "Original debtor" except as used in K.S.A. 2018 Supp. 84-9-310(c), and amendments thereto, means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under K.S.A. 2018 Supp. 84-9-203(d), and amendments thereto.

(61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(62) "Person related to," with respect to an individual, means:

(A) The spouse of the individual;

(B) a brother, brother-in-law, sister or sister-in-law of the individual;

(C) an ancestor or lineal descendant of the individual or the individual's spouse; or

(D) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(63) "Person related to," with respect to an organization, means:

(A) A person directly or indirectly controlling, controlled by or under common control with the organization;

(B) an officer or director of, or a person performing similar functions with respect to, the organization;

(C) an officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (A);

(D) the spouse of an individual described in subparagraph (A), (B) or (C); or

(E) an individual who is related by blood or marriage to an individual described in subparagraph (A), (B), (C) or (D) and shares the same home with the individual.

(64) "Proceeds" except as used in K.S.A. 2018 Supp. 84-9-609(b), and amendments thereto, means the following property:

(A) Whatever is acquired upon the sale, lease, license, exchange or other disposition of collateral;

(B) whatever is collected on, or distributed on account of, collateral;

(C) rights arising out of collateral;

(D) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to K.S.A. 2018 Supp. 84-9-620, 84-9-621 and 84-9-622, and amendments thereto.

(67) "Public organic record" means a record that is available to the public for inspection and is:

(A) A record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;

(B) an organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

(C) a record consisting of legislation enacted by the legislature of a state or the congress of the United States which forms or organizes an organization, any record amending the legislation and any record filed with or issued by the state or the United States which amends or restates the name of the organization.

(68) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(69) "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(70) "Registered organization" means an organization formed or organized solely under the law of a single state or the United States by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by, the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a law of the state governing business trusts requires that the business trust's organic record be filed with the state. The term also includes a series of a registered organization if the series is an organization formed or

organized under the law of a single state and the statute of the state governing the series requires that the public organic record of the series be filed with the state.

(71) "Secondary obligor" means an obligor to the extent that:

(A) The obligor's obligation is secondary; or

(B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(72) "Secured party" means:

(A) A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that holds an agricultural lien;

(C) a consignor;

(D) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) a person that holds a security interest arising under K.S.A. 84-2-401, 84-2-505, 84-2-711(3), 84-2a-508(5), 84-4-210 and 84-5-118, and amendments thereto.

(73) "Security agreement" means an agreement that creates or provides for a security interest.

(74) "Send," in connection with a record or notification, means:

(A) To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) to cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (A).

(75) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(76) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(77) "Statutory lien" means liens created by K.S.A. 2-1319, 2-2608, 2-3007, 34-239, 47-836, 58-201, 58-203, 58-204, 58-207, 58-218, 58-220, 58-221, 58-241, 58-242, 58-2524, 58-2525, 58-2526, 58-2527 and 58-2528, and K.S.A. 2018 Supp. 84-7-209, and amendments thereto.

(78) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(79) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(80) "Termination statement" means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(81) "Transmitting utility" means a person primarily engaged in the business of:

(A) Operating a railroad, subway, street railway, or trolley bus;

(B) transmitting communications electrically, electromagnetically, or by light;

(C) transmitting goods by pipeline or sewer; or

(D) transmitting or producing and transmitting electricity, steam, gas, or water.

(b) **Definitions in other articles.** The following definitions in other articles apply to this article:

"Applicant"	K.S.A. 84-5-102, and amendments thereto
"Beneficiary"	K.S.A. 84-5-102, and amendments thereto
"Broker"	K.S.A. 84-8-102, and amendments thereto
"Certificated security"	K.S.A. 84-8-102, and amendments thereto
"Check"	K.S.A. 84-3-104, and amendments thereto
"Clearing corporation"	K.S.A. 84-8-102, and amendments thereto
"Contract for sale"	K.S.A. 84-2-106, and amendments thereto
"Customer"	K.S.A. 84-4-104, and amendments thereto
"Entitlement holder"	K.S.A. 84-8-102, and amendments thereto
"Financial asset"	K.S.A. 84-8-102, and amendments thereto
"Holder in due course"	K.S.A. 84-3-302, and amendments thereto
"Issuer" (with respect to a letter of credit or letter-of-credit right)	K.S.A. 84-5-102, and amendments thereto

"Issuer" (with respect to a security)	K.S.A. 84-8-102, and amendments thereto
"Issuer" (with respect to documents of title)	K.S.A. 2018 Supp. 84-7-102, and amendments thereto
"Lease"	K.S.A. 84-2a-103, and amendments thereto
"Lease agreement"	K.S.A. 84-2a-103,  and amendments thereto
"Lease contract"	K.S.A. 84-2a-103,  and amendments thereto
"Leasehold interest"	K.S.A. 84-2a-103,  and amendments thereto
"Lessee"	K.S.A. 84-2a-103,  and amendments thereto
"Lessee in ordinary course of business"	K.S.A. 84-2a-103, and amendments thereto
"Lessor"	K.S.A. 84-2a-103,  and amendments thereto
"Lessor's residual interest"	K.S.A. 84-2a-103, and amendments thereto
"Letter of credit"	K.S.A. 84-5-102,  and amendments thereto



"Merchant"	K.S.A. 84-2-104, and amendments thereto
"Negotiable instrument"	K.S.A. 84-3-104, and amendments thereto
"Nominated person"	K.S.A. 84-5-102, and amendments thereto
"Note"	K.S.A. 84-3-104, and amendments thereto
"Proceeds of a letter of credit"	K.S.A. 84-5-114, and amendments thereto
"Prove"	K.S.A. 84-3-103, and amendments thereto
"Sale"	K.S.A. 84-2-106, and amendments thereto
"Securities account"	K.S.A. 84-8-501, and amendments thereto
"Securities intermediary"	K.S.A. 84-8-102, and amendments thereto
"Security"	K.S.A. 84-8-102, and amendments thereto

"Security certificate"	K.S.A. 84-8-102, and amendments thereto
"Security entitlement"	K.S.A. 84-8-102, and amendments thereto
"Uncertificated security"	K.S.A. 84-8-102, and amendments thereto

(c) **Article 1 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, definitions and principles.** Article 1 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, contains general definitions and principles of construction and interpretation applicable throughout this article.

Sec. 53. K.S.A. 2018 Supp. 17-1762 is hereby amended to read as follows: 17-1762. The following persons shall not be required to register with the secretary of state:

(a) State educational institutions under the control and supervision of the state board of regents, unified school districts, educational interlocals, educational cooperatives, area vocational-technical schools, all educational institutions that are accredited by a regional accrediting association or by an organization affiliated with the national commission of accrediting, any foundation having an established identity with any of the aforementioned educational institutions, any other educational institution confining its solicitation of contributions to the student body, alumni, faculty and trustees of such institution, and their families, or a library established under the laws of this state, provided that the annual financial report of such institution or library shall be filed with the attorney general;

(b) fraternal, patriotic, social, educational, alumni organizations and historical societies when solicitation of contributions is confined to their membership. This exemption shall be extended to any subsidiary of a parent or superior organization exempted by this subsection where such solicitation is confined to the membership of the subsidiary, parent or superior organization;

(c) persons requesting any contributions for the relief or benefit of any individual, specified by name at the time of the solicitation, if the contributions collected are turned over to the named beneficiary, first deducting reasonable expenses for costs of banquets, or social gatherings, if any, provided all fund raising functions are carried on by persons who are unpaid, directly or indirectly, for such services;

(d) any charitable organization which does not intend to solicit and receive and does not actually receive contributions in excess of \$10,000 during such organization's tax period, as defined by K.S.A. 17-7501, and amendments thereto, if all of such organization's fund-raising functions are carried on by persons who are unpaid for such services. However, if the gross contributions received by such charitable organization during any such tax period is in excess of \$10,000, such organization, within 30 days after the end of such tax period, shall register with the secretary of state as provided in

K.S.A. 17-1763, and amendments thereto;

(e) any incorporated community chest, united fund, united way or any charitable organization receiving an allocation from an incorporated community chest, united fund or united way;

(f) a bona fide organization of volunteer firemen, or a bona fide auxiliary or affiliate of such organization, if all fund-raising activities are carried on by members of such organization or an affiliate thereof and such members receive no compensation, directly or indirectly, therefor;

(g) any charitable organization operating a nursery for infants awaiting adoption if all fund-raising activities are carried on by members of such an organization or an affiliate thereof and such members receive no compensation, directly or indirectly, therefor;

(h) any corporation established by the federal congress that is required by federal law to submit annual reports of such corporation's activities to congress containing itemized accounts of all receipts and expenditures after being duly audited by the department of defense or other federal department;

(i) any girls' club which is affiliated with the girls' club of America, a corporation chartered by congress, if such an affiliate properly files the reports required by the girls' club of America and that the girls' club of America files with the government of the United States the reports required by such federal charter;

(j) any boys' club which is affiliated with the boys' club of America, a corporation chartered by congress, if such an affiliate properly files the reports required by the boys' club of America and that the boys' club of America files with the government of the United States the reports required by such federal charter;

(k) any corporation, trust or organization incorporated or established for religious purposes, or established for charitable, hospital or educational purposes and engaged in effectuating one or more of such purposes, that is affiliated with, operated by or supervised or controlled by a corporation, trust or organization incorporated or established for religious purposes, or to any other religious agency or organization which serves religion by the preservation of religious rights and freedom from persecution or prejudice or by fostering religion, including the moral and ethical aspects of a particular religious faith;

(l) the boy scouts of America and the girl scouts of America, including any regional or local organization affiliated therewith;

(m) the young men's christian association and the young women's christian association, including any regional or local organization affiliated therewith;

(n) any licensed medical care facility which is organized as a nonprofit corporation under the laws of this state;

(o) any licensed community mental health center or licensed mental health clinic;

(p) any licensed community center for people with intellectual disability and its affiliates as determined by the Kansas department for aging and disability services;

(q) any charitable organization of employees of a corporation whose principal gifts are made to an incorporated community chest, united fund or united way, and whose solicitation is limited to such employees;

(r) any community foundation or community trust to which deductible contributions can be made by individuals, corporations, public charities and private foundations, as well as other charitable organizations and governmental agencies for the

overall purposes of the foundation or to particular charitable and endowment funds established under agreement with the foundation or trust for the charitable benefit of the people of a specific geographic area and which is a nonprofit organization exempt from federal income taxation pursuant to section 501(a) of the internal revenue code of 1986, as in effect on the effective date of this act, by reason of qualification under section 501(c)(3) of the internal revenue code of 1986, as in effect on the effective date of this act, and which is deemed a publicly supported organization and not a private foundation within the meaning of section 509(a)(1) of the internal revenue code of 1986, as in effect on the effective date of this act;

(s) any charitable organization which does not intend to or does not actually solicit or receive contributions from more than 100 persons;

(t) any charitable organization the funds of which are used to support an activity of a municipality of this state; ~~and~~

(u) the junior league, including any local community organization affiliated therewith; ~~and~~

(v) any charitable organization that is an animal shelter licensed pursuant to K.S.A. 47-1701 et seq., and amendments thereto.

Sec. 54. K.S.A. 17-76,135, and 17-76,138 and K.S.A. 2018 Supp. 17-1762, 17-7662, 17-7663, 17-7673, 17-7675, 17-7679, 17-7680, 17-7681, 17-7687, 17-7689, 17-7690, 17-7695, 17-7698, 17-76,106, 17-76,112, 17-76,113, 17-76,114, 17-76,116, 17-76,118, 17-76,136, 17-76,145, 17-7904, 17-7915, 17-7916, 17-7929 and 60-304 are hereby repealed.

Sec. 55. On and after July 1, 2020, K.S.A. 2018 Supp. 17-7675, as amended by section 16 of this act, 17-7679, as amended by section 18 of this act, 17-7680, as amended by section 20 of this act, 17-76,136, as amended by section 35 of this act, 17-76,139, 17-76,143, 17-76,146, 17-7904, as amended by section 42 of this act, 17-7918, 17-7923, 17-7933, 84-1-201 and 84-9-102 are hereby repealed.";

And by renumbering sections accordingly;

Also on page 1, in the title, in line 1, by striking "recognition of tribal court judgments" and inserting "business entities; relating to charitable organizations; exemption from registration; animal shelters; limited liability companies; Kansas revised limited liability company act; business entity standard treatment act; amending K.S.A. 17-76,135 and 17-76,138 and K.S.A. 2018 Supp. 17-1762, 17-7662, 17-7663, 17-7673, 17-7675, 17-7675, as amended by section 16 of this act, 17-7679, 17-7679, as amended by section 18 of this act, 17-7680, 17-7680, as amended by section 20 of this act, 17-7681, 17-7687, 17-7689, 17-7690, 17-7695, 17-7698, 17-76,106, 17-76,112, 17-76,113, 17-76,114, 17-76,116, 17-76,118, 17-76,136, 17-76,136, as amended by section 35 of this act, 17-76,139, 17-76,143, 17-76,145, 17-76,146, 17-7904, 17-7904, as amended by section 42 of this act, 17-7915, 17-7916, 17-7918, 17-7923, 17-7929, 17-7933, 60-304, 84-1-201 and 84-9-102 and repealing the existing sections";

And your committee on conference recommends the adoption of this report.

RICHARD WILBORN

ERIC RUCKER

VIC MILLER

*Conferees on part of Senate*

FRED PATTON  
 BRAD RALPH  
 JOHN CARMICHAEL

*Conferees on part of House*

Senator Wilborn moved the Senate adopt the Conference Committee Report on **HB 2039**.

On roll call, the vote was: Yeas 39; Nays 1; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Wagle, Ware, Wilborn.

Nays: Tyson.

The Conference Committee Report was adopted.

#### CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MADAM PRESIDENT: Your committee on conference on Senate amendments to **HB 2087** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 1, by striking all in lines 6 through 34;

On page 2, by striking all in lines 1 through 27; following line 27, by inserting:

"Section 1. K.S.A. 2018 Supp. 79-3401 is hereby amended to read as follows: 79-3401. This act, ~~and amendments thereto~~, shall be known and may be cited as the "motor-fuel tax law," and as so constituted is hereinafter referred to as "this act." The following words, terms and phrases, when used in this act, shall have the meanings ascribed to them in this section, except in those instances clearly indicating a different meaning:

(a) "Aviation fuel" means motor fuels for use as fuel for aircraft;

(b) "agricultural ethyl alcohol" means a motor-vehicle fuel component with a purity of at least 99%, exclusive of any added denaturants, denatured in conformity with one of the methods approved by the United States department of the treasury, bureau of alcohol, tobacco and firearms, and distilled in the United States of America from grain produced in the United States of America;

(c) "bulk plant" means a motor fuels storage facility, other than a terminal, that is primarily used to redistribute motor fuels;

(d) "dealer" means any person engaged in the retail sale of motor-vehicle fuels or special fuels;

(e) "director" means the director of taxation, a duly authorized deputy, agent or representative;

(f) "distributor" means any person, who:

(1) Imports or causes to be imported from any other state or territory of the United States motor-vehicle fuels or special fuels for such person's own use in the state of Kansas, or for sale and delivery therein, after the same shall have come to rest or storage therein, whether or not in the original package, receptacle or container; or

(2) imports or causes to be imported, from a foreign country, motor-vehicle fuels or special fuels for such person's own use in the state of Kansas, or for sale and delivery therein, after the same shall have come to rest or storage, whether or not in the original package, receptacle or container;

(3) purchases or receives motor-vehicle fuels or special fuels in the original package, receptacle or container in the state of Kansas for such person's own use therein, or for sale and delivery therein, from any person who has imported the same from any other state or territory of the United States, or any other nation, in case such motor-vehicle fuels or special fuels have not, prior to such purchase or receipt, come to rest or storage in the state of Kansas; or

(4) received and, in any manner, uses, sells or delivers motor-vehicle fuels or special fuels in the state of Kansas on which the tax provided for in this act has not been previously paid;

(g) "exporter" means any person who exports or causes to be exported motor vehicle fuels or special fuels from Kansas to any other state or territory of the United States or to a foreign country, for such person's own use or for sale or delivery therein, whether or not in the original package, receptacle or container;

(h) "importer" means any person who imports or causes to be imported motor-vehicle fuels or special fuels from any other state or territory of the United States or from a foreign country, for such person's own use in the state of Kansas or for sale or delivery therein, whether or not in the original package, receptacle or container;

(i) "liquid fuels" or "motor fuels" means any inflammable liquid by whatever name such liquid shall be known or sold, ~~which that~~ is used, or practically or commercially usable, either alone or when mixed or combined in an internal-combustion engine for the generation of power;

(j) "manufacturer" or "refiner" means any person ~~who or which that~~ produces, refines, prepares, blends, distills, manufactures or compounds motor-vehicle fuels or special fuels in the state of Kansas for such person's own use therein, or for sale or delivery therein. The term "manufacturer" shall not include any person ~~who or which that~~ mechanically separates liquids from natural gas at production facilities or gathering system pipelines on the lease. No person who produces, refines, prepares, blends, distills, manufactures, or compounds motor-vehicle fuels or special fuels shall be required to render a distributor's (manufacturer's) report as to any particular lot or lots of motor-vehicle fuels or special fuels until such motor-vehicle fuels or special fuels have been loaded at a refinery or other place of production into tank cars, or placed in any tank at such refinery or other place of production from which any withdrawals are made direct into tanks, tank wagons or other types of transportation equipment, containers or facilities;

(k) "motor vehicle" means a motor vehicle as defined by K.S.A. 8-126, and amendments thereto, ~~and which that~~ is required to be registered pursuant to K.S.A. 8-126 et seq., and amendments thereto;

(l) "motor-vehicle fuels" means gasoline, casinghead gasoline, natural gasoline, drip gasoline, aviation gasoline, gasohol, gasoline-oxygenate blend and any other spark-ignition motor fuel as defined by the 1995 United States department of commerce, national institute of standards and technology handbook 130 issued December of 1994, and as may subsequently be defined in rules and regulations ~~which that~~ the director may adopt pursuant to K.S.A. 79-3419, and amendments thereto;

(m) "oil inspector" means the director of taxation, a duly authorized deputy, agent or representative;

(n) "person" means every natural person, association, partnership, limited partnership, limited liability company or corporation. When used in any statute, prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to firms and associations means the partners or members thereof and, as applied to corporations, the corporation and the officers thereof;

(o) "public highways" means and includes every way or place, of whatever nature, generally open to the use of the public as a matter of right, for the purposes of vehicular travel and notwithstanding that the same shall have been temporarily closed for the purpose of construction, reconstruction or repair;

(p) "received" means motor-vehicle fuel or special fuel produced, refined, prepared, distilled, manufactured, blended or compounded at any refinery or other place, in the state of Kansas by any person, or imported into this state from any other state, territory, or foreign country by pipeline or connecting pipeline at a pipeline terminal or pipeline tank farm for storage, shall be deemed to be "received" by such person thereat when the same shall have been loaded at such refinery, pipeline terminal, pipeline tank farm or other place, into tank cars, tank trucks or other container, or placed in any tank from which any withdrawals are made direct into tank cars, tank trucks or other types of transportation equipment, containers or facilities;

(q) "retailer" means a person that engages in the business of selling or distributing motor fuels to the end user;

(r) "school bus" means every ~~bus, as defined by K.S.A. 8-1406, and amendments thereto, which motor vehicle that~~ is: (1) Privately owned and contracted for, leased or hired by a school district or nonpublic school for the transportation of pupils; ~~or students or school personnel~~ to or from school or to or from school-related functions or activities; or (2) owned and operated by a school district or nonpublic school ~~which that~~ is registered under the provisions of K.S.A. 8-126 et seq., and amendments thereto, used for the transportation of pupils; ~~or students or school personnel~~ to or from school or to or from school-related functions or activities;

(s) "special fuels" means all combustible liquids suitable for the generation of power for the propulsion of motor vehicles including, but not limited to, diesel fuel, alcohol and such fuels not defined under the motor-vehicle fuels definition, hereinafter referred to as motor-vehicle fuel;

(t) "terminal" means a fuel storage and distribution facility that is supplied by motor vehicle, pipeline or marine vessel, and from which motor fuels may be removed at a rack. "Terminal" does not include any facility at which motor fuel blend stocks and additives are used in the manufacture of products other than motor fuels and from which no motor fuels are removed;

(u) "terminal operator" means the person who by ownership or contractual agreement is charged with the responsibility for, or physical control over, and operation of a terminal;

(v) "transporter" means a person who has been issued a liquid-fuels carrier's license pursuant to K.S.A. 55-506 et seq., and amendments thereto; and

(w) "E85 fuels" means an alternative fuel that is a blend of denatured ethanol and hydrocarbon that typically contains 85% ethanol by volume, but at a minimum must contain 70% ethanol by volume, and complies with ASTM specification D5798-99.";

Also on page 2, in line 28, by striking "8-1749a" and inserting "79-3401";

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2, by striking all before the semicolon and inserting "the motor-fuel tax law; relating to the definition of school bus"; also in line 2, by striking "8-"; in line 3, by striking "1749a" and inserting "79-3401";

And your committee on conference recommends the adoption of this report.

MIKE PETERSEN

DAN GODDARD

PAT PETTEY

*Conferees on part of Senate*

RICHARD PROEHL

JACK THIMESCH

HENRY HELGERSON

*Conferees on part of House*

Senator Petersen moved the Senate adopt the Conference Committee Report on **HB 2087**.

On roll call, the vote was: Yeas 37; Nays 3; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Rucker, Skubal, Suellentrop, Sykes, Taylor, Wagle, Ware, Wilborn.

Nays: Hilderbrand, Pyle, Tyson.

The Conference Committee Report was adopted.

## CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MADAM PRESIDENT: Your committee on conference on Senate amendments to **HB 2126** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 1, by striking all in lines 6 through 34;

By striking all on pages 2 through 18;

On page 19, by striking all in lines 1 through 27; following line 27, by inserting:

"Section 1. K.S.A. 74-2012 is hereby amended to read as follows: 74-2012. (a) (1) All motor vehicle records shall be subject to the provisions of the open records act, except as otherwise provided under the provisions of this section and by K.S.A. 65-2422d and 74-2022, and amendments thereto.

(2) Nothing in this section shall prevent the transmittal of motor vehicle records for the purpose of processing voter registration applications.

(3) For the purpose of this section, "motor vehicle records" means any record that pertains to a motor vehicle drivers' license, motor vehicle certificate of title, motor vehicle registration or identification card issued by the division of vehicles.

(b) All motor vehicle records which relate to the physical or mental condition of



any person, have been expunged or are photographs or digital images maintained in connection with the issuance of drivers' licenses shall be confidential and shall not be disclosed except in accordance with a proper judicial order or as otherwise more specifically provided in this section or by other law. Photographs or digital images maintained by the division of vehicles in connection with the issuance of drivers' licenses may be disclosed to any federal, state or local agency, including any court or law enforcement agency, to assist such agency in carrying out the functions required of such governmental agency. In January of each year the division shall report to the house committee on veterans, military and homeland security regarding the utilization of the provisions of this subsection. Motor vehicle records relating to diversion agreements for the purposes of K.S.A. 8-1567, 12-4415 and 22-2908, and amendments thereto, shall be confidential and shall not be disclosed except in accordance with a proper judicial order or by direct computer access to:

(1) A city, county or district attorney, for the purpose of determining a person's eligibility for diversion or to determine the proper charge for a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or any ordinance of a city or resolution of a county in this state which prohibits any acts prohibited by those statutes;

(2) a municipal or district court, for the purpose of using the record in connection with any matter before the court;

(3) a law enforcement agency, for the purpose of supplying the record to a person authorized to obtain it under paragraph (1) or (2); or

(4) an employer when a person is required to retain a commercial driver's license due to the nature of such person's employment.

(c) Lists of persons' names and addresses contained in or derived from motor vehicle records shall not be sold, given or received for the purposes prohibited by K.S.A. 2018 Supp. 45-230, and amendments thereto, except that:

(1) The director of vehicles may provide to a requesting party, and a requesting party may receive, such a list and accompanying information from motor vehicle records upon written certification that the requesting party shall use the list solely for the purpose of:

~~(A) Assisting manufacturers of motor vehicles in compiling statistical reports or in notifying owners of vehicles believed to:~~

~~(i) Have safety-related defects;~~

~~(ii) fail to comply with emission standards; or~~

~~(iii) have any defect to be remedied at the expense of the manufacturer;~~

~~(B) assisting an insurer authorized to do business in this state, or the insurer's authorized agent:~~

~~(i) In processing an application for, or renewal or cancellation of, a motor vehicle liability insurance policy; or~~

~~(ii) in conducting antifraud activities by identifying potential undisclosed drivers of a motor vehicle currently insured by an insurer licensed to do business in this state by providing only the following information: Drivers' license number, license type, date of birth, name, address, issue date and expiration date;~~

~~(C) assisting the selective service system in the maintenance of a list of persons 18 to 26 years of age in this state as required under the provisions of section 3 of the federal military selective service act;~~

~~(D) assisting any federal, state or local agency, including any court or law~~

enforcement agency, or any private person acting on behalf of such agencies in carrying out the functions required of such governmental agency, except that such records shall not be redisclosed;

~~(E)(B)~~ assisting businesses with the verification or reporting of information derived from the title and registration records of the division to prepare and assemble vehicle history reports, except that such vehicle history reports shall not include the names or addresses of any current or previous owners;

~~(F)~~ assisting businesses in producing motor vehicle title or motor vehicle registration, or both, statistical reports, so long as personal information is not published, redisclosed or used to contact individuals;

~~(G)(C)~~ assisting an employer or an employer's authorized agent in monitoring the driving record of the employees required to drive in the course of employment to ensure driver behavior, performance or safety; or

~~(H)(D)~~ assisting the Kansas commission on veterans affairs office in notifying veterans of the facilities, benefits and services available to veterans; or

(E) any other purpose authorized by the driver's privacy protection act, 18 U.S.C. § 2721, as it existed on January 1, 2018.

(2) Any law enforcement agency of this state which has access to motor vehicle records may furnish to a requesting party, and a requesting party may receive, such a list and accompanying information from such records upon written certification that the requesting party shall use the list solely for the purpose of assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in processing an application for, or renewal or cancellation of, a motor vehicle liability insurance policy.

(d) If a law enforcement agency of this state furnishes information to a requesting party pursuant to subsection (c)(2), the law enforcement agency shall charge the fee prescribed by the secretary of revenue pursuant to K.S.A. 74-2022, and amendments thereto, for any copies furnished and may charge an additional fee to be retained by the law enforcement agency to cover its cost of providing such copies. The fee prescribed pursuant to K.S.A. 74-2022, and amendments thereto, shall be paid monthly to the secretary of revenue and upon receipt thereof shall be deposited in the state treasury to the credit of the electronic databases fee fund, except for the \$1 of the fee for each record required to be credited to the highway patrol training center fund under subsection (f).

(e) The secretary of revenue, the secretary's agents or employees, the director of vehicles or the director's agents or employees shall not be liable for damages caused by any negligent or wrongful act or omission of a law enforcement agency in furnishing any information obtained from motor vehicle records.

(f) A fee in an amount fixed by the secretary of revenue pursuant to K.S.A. 74-2022, and amendments thereto, of not less than \$2 for each full or partial motor vehicle record shall be charged by the division, except that the director may charge a lesser fee pursuant to a contract between the secretary of revenue and any person to whom the director is authorized to furnish information under subsection (c)(1), and such fee shall not be less than the cost of production or reproduction of any full or partial motor vehicle record requested. ~~Except for the fees charged pursuant to a contract for motor vehicle records authorized by this subsection pertaining to motor vehicle titles or motor vehicle registrations or pursuant to subsection (c)(1)(B)(ii) or (c)(1)(D), \$1 shall be credited to the highway patrol training center fund for each motor vehicle record~~

provided by the division of vehicles. One dollar shall be credited to the highway patrol training center fund for each motor vehicle record provided by the division of vehicles, except for fees charged:

(1) Pursuant to a contract for motor vehicle records authorized by this subsection pertaining to motor vehicle titles or motor vehicle registrations; or

(2) for motor vehicle records authorized for disclosure pursuant to subsection (c)(1)(E) for the purposes of:

(A) Assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in conducting antifraud activities; or

(B) assisting any federal, state or local agency, including any court or law enforcement agency, or any private person acting on behalf of such agencies, in carrying out the functions required of such governmental agency.

(g) The secretary of revenue may adopt such rules and regulations as are necessary to implement the provisions of this section.

Sec. 2. K.S.A. 74-2012 is hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in line 2; in line 3, by striking all before the period and inserting "the division of motor vehicles; relating to the disclosure of records; adopting the driver's privacy protection act; amending K.S.A. 74-2012 and repealing the existing section";

And your committee on conference recommends the adoption of this report.

MIKE PETERSEN

DAN GODDARD

PAT PETTEY

*Conferees on part of Senate*

RICHARD PROEHL

JACK THIMESCH

HENRY HELGERSON

*Conferees on part of House*

Senator Petersen moved the Senate adopt the Conference Committee Report on **HB 2126**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Ware, Wilborn.

The Conference Committee Report was adopted.

## CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MADAM PRESIDENT: Your committee on conference on Senate amendments to HB 2177 submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee

amendments, as follows:

On page 3, in line 14, after "Annotated" by inserting ", and amendments thereto,";

On page 4, following line 16, by inserting:

"Sec. 3. K.S.A. 2018 Supp. 40-3305 is hereby amended to read as follows: 40-3305. (a) Every insurer ~~which that~~ is authorized to do business in this state and ~~which that~~ is a member of an insurance holding company system shall register with the commissioner of insurance, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile ~~which that~~ are substantially similar to those contained in this section. Any insurer ~~which that~~ is subject to registration under this section shall register within 15 days after it becomes subject to registration, and annually thereafter by May 1 of each year unless the commissioner of insurance for good cause shown extends the time for registration, and then within such extended time. The commissioner of insurance may require any authorized insurer ~~which that~~ is a member of an insurance holding company system and ~~which that~~ is not subject to registration under this section to furnish a copy of the registration statement, the summary specified in subsection (c) or other information filed by such insurance company with the insurance regulatory authority of domiciliary jurisdiction.

(b) Pursuant to subsection (a), every insurer subject to registration shall file a registration statement on a form provided by the commissioner of insurance, ~~which that~~ shall contain current information about:

(1) The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer;

(2) the identity and relationship of every member of the insurance holding company system;

(3) the following agreements in force and transactions currently outstanding or ~~which that~~ occurred during the last calendar year between such insurer and its affiliates:

(A) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(B) purchases, sales; or exchanges of assets;

(C) transactions not in the ordinary course of business;

(D) guarantees or undertakings for the benefit of an affiliate ~~which that~~ result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(E) all management agreements, service contracts and cost sharing arrangements;

(F) reinsurance agreements;

(G) dividends and other distributions to shareholders; and

(H) consolidated tax allocation agreements;

(4) other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner of insurance;

(5) any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system;

(6) ~~if requested by the commissioner of insurance, the insurer shall include financial statements of or within an insurance holding company system, including all affiliates, if requested by the commissioner of insurance.~~ Financial statements may

include, but are not limited to, annual audited financial statements filed with the U.S. securities and exchange commission (SEC) pursuant to the securities act of 1933, as amended, or the securities exchange act of 1934, as amended. An insurer required to file financial statements pursuant to this paragraph may satisfy the request by providing the commissioner of insurance with the most recently filed parent corporation financial statements that have been filed with the SEC;

(7) statements that the insurer's board of directors and principal officers oversee corporate governance and internal controls and that the insurer's principal officers have approved, implemented and continue to maintain and monitor corporate governance and internal control procedures; and

(8) any other information required by the commissioner of insurance by rules and regulations.

(c) All registration statements shall be accompanied by a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(d) No information need be disclosed on the registration statement filed pursuant to subsection (b) if such information is not material for the purpose of this section. Unless the commissioner of insurance by rules and regulations or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments or guarantees, involving ~~5%~~ 0.5% or less of an insurer's admitted assets as of the December 31 immediately preceding shall be deemed immaterial for purposes of this section.

(e) Each registered insurer shall keep current the information required to be disclosed in such insurer's registration statement by reporting all material changes or additions on amendment forms provided by the commissioner of insurance within 15 days after the end of the month in which it learns of each such change or addition, except each registered insurer shall report all dividends and other distributions to shareholders within five business days following its declaration. Any such dividend or distribution shall not be paid for at least 10 business days from the commissioner's receipt of the notice of its declaration.

(f) Any person within an insurance holding company system subject to registration shall provide complete and accurate information to an insurer, where such information is reasonably necessary to enable the insurer to comply with the provisions of this act.

(g) The commissioner of insurance shall terminate the registration of any insurer ~~which that~~ demonstrates that such insurer no longer is a member of an insurance holding company system.

(h) The commissioner of insurance may require or allow two or more affiliated insurers subject to registration hereunder to file a consolidated registration statement.

(i) The commissioner of insurance may allow an insurer ~~which that~~ is authorized to do business in this state and ~~which that~~ is part of an insurance holding company system to register on behalf of any affiliated insurer ~~which that~~ is required to register under subsection (a) and to file all information and material required to be filed under this section.

(j) The provisions of this section shall not apply to any information or transaction if and to the extent the commissioner of insurance by rule and regulation or order ~~shall exempt~~ exempts the same from the provisions of this section.

(k) Any person may file with the commissioner of insurance a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer

or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with such person unless and until the commissioner of insurance disallows such a disclaimer. The commissioner of insurance shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act.

(1) (1) Except as provided in paragraph (2), the ultimate controlling person of every insurer subject to registration also shall file an annual enterprise risk report. The report, to the best of the ultimate controlling person's knowledge and belief, shall identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report shall be appropriate to the nature, scale and complexity of the insurer. The report shall be filed with the lead state commissioner of insurance of the insurance holding company system as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners. The first enterprise risk report shall be filed no later than May 1, 2015, and annually thereafter by May 1 of each year unless the commissioner of insurance extends the time for filing for good cause shown.

(2) The ultimate controlling person of ~~an~~ a domestic insurer that is authorized, admitted or eligible to engage in the business of insurance only in this state with total direct and assumed annual premiums of less than \$300 million is not required to submit an enterprise risk report under paragraph (1) unless the ultimate controlling person of the domestic insurer also controls other insurers that do not meet the requirements of this subsection. For the purposes of this subsection, an insurer is not considered to be authorized, admitted or eligible to engage in the business of insurance only in this state if the insurer directly or indirectly writes or assumes insurance in any other manner in another state.

(m) The failure of an insurer or an ultimate controlling person of the insurer to file a registration statement, any summary of the registration statement or enterprise risk filing within the specified time for filing shall be a violation by the insurer or by the ultimate controlling person of the insurer, as applicable.

Sec. 4. K.S.A. 2018 Supp. 40-2,118 is hereby amended to read as follows: 40-2,118. (a) For purposes of this act a "fraudulent insurance act" means an act committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written, electronic, electronic impulse, facsimile, magnetic, oral, or telephonic communication or statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto.

(b) An insurer that has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed shall provide to the commissioner, on a form

prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may require.

(c) Any other person ~~that~~ who has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed may provide to the commissioner, on a form prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may request.

(d) (1) Each insurer shall have antifraud initiatives reasonably calculated to detect fraudulent insurance acts. Antifraud initiatives may include fraud investigators, who may be insurer employees or independent contractors and an antifraud plan submitted to the commissioner no later than July 1, 2007. Each insurer that submits an antifraud plan shall notify the commissioner of any material change in the information contained in the antifraud plan within 30 days after such change occurs. Such insurer shall submit to the commissioner in writing the amended antifraud plan.

The requirement for submitting any antifraud plan, or any amendment thereof, to the commissioner shall expire on the date specified in subsection (d)(2) unless the legislature reviews and reenacts the provisions of subsection (d)(2) prior to such date.

(2) Any antifraud plan, or any amendment thereof, submitted to the commissioner for informational purposes only shall be confidential and not be a public record and shall not be subject to discovery or subpoena in a civil action unless following an in camera review, the court determines that the antifraud plan is relevant and otherwise admissible under the rules of evidence set forth in article 4 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto. The provisions of this paragraph shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision prior to July 1, 2021.

(e) Except as otherwise specifically provided in K.S.A. 2018 Supp. 21-5812(a), and amendments thereto, and K.S.A. 44-5,125, and amendments thereto, a fraudulent insurance act shall constitute a severity level 6, nonperson felony if the amount involved is \$25,000 or more; a severity level 7, nonperson felony if the amount involved is at least \$5,000 but less than \$25,000; a severity level 8, nonperson felony if the amount involved is at least \$1,000 but less than \$5,000; and a class C nonperson misdemeanor if the amount involved is less than \$1,000. Any combination of fraudulent acts as defined in subsection (a) which occur in a period of six consecutive months which involves \$25,000 or more shall have a presumptive sentence of imprisonment regardless of its location on the sentencing grid block.

(f) In addition to any other penalty, a person who violates this statute shall be ordered to make restitution to the insurer or any other person or entity for any financial loss sustained as a result of such violation. An insurer shall not be required to provide coverage or pay any claim involving a fraudulent insurance act.

(g) For the purposes of this section:

(1) "Amount involved" means the greater of: (A) The actual pecuniary harm resulting from the fraudulent insurance act; (B) the pecuniary harm that was intended to result from the fraudulent insurance act; or (C) the intended pecuniary harm that would have been impossible or unlikely to occur, such as in a government sting operation or a fraud in which the claim for payment or other benefit pursuant to an insurance policy exceeded the allowed value. The aggregate dollar amount of the fraudulent claims submitted to the insurance company shall constitute prima facie evidence of the amount

of intended loss and is sufficient to establish the aggregate amount involved in the fraudulent insurance act, if not rebutted; and

(2) "pecuniary harm" means harm that is monetary or that otherwise is readily measurable in money, and does not include emotional distress, harm to reputation or other non-economic harm.

(h) This act shall apply to all insurance applications, ratings, claims and other benefits made pursuant to any insurance policy.";

Also on page 4, in line 17, after "Supp." by inserting "40-2,118, 40-2,118a,"; also in line 17, by striking "is" and inserting "and 40-3305 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "to"; by striking lines 2 and 3; in line 4, by striking all before the second semicolon and inserting "the accounting treatment of certain derivative instruments used in hedging transactions; version of risk-based capital instructions in effect; exempting certain domestic insurers from filing enterprise risk reports; defining amount involved for fraudulent insurance acts"; in line 5, after "Supp." by inserting "40-2,118,"; also in line 5, after "40-2c01" by inserting "and 40-3305"; also in line 5, by striking "section" and inserting "sections; also repealing K.S.A. 2018 Supp. 40-2,118a";

And your committee on conference recommends the adoption of this report.

ROB OLSON

RICK BILLINGER

MARY WARE

*Conferees on part of Senate*

JENE VICKREY

TOM COX

CINDY NEIGHBOR

*Conferees on part of House*

Senator Olson moved the Senate adopt the Conference Committee Report on **HB 2177**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Ware, Wilborn.

The Conference Committee Report was adopted.

## CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MADAM PRESIDENT: Your committee on conference on Senate amendments to **HB 2209** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 1, following line 5, by inserting:



"New Section 1. On and after July 1, 2019, the provisions of sections 1 through 3, and amendments thereto, shall be known and may be cited as the unclaimed life insurance benefits act.

New Sec. 2. As used in the unclaimed life insurance benefits act:

(a) "Contract" means an annuity contract. The term "contract" shall not include an annuity used to fund an employment-based retirement plan or program where: (1) The insurer does not perform the record-keeping services; or (2) the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

(b) "Death master file" means the United States social security administration's death master file or any other database or service that is at least as comprehensive as the United States social security administration's death master file for determining that a person has reportedly died.

(c) "Death master file match" means a search of the death master file that results in a match of the social security number or the name and date of birth of an insured, annuity owner or retained asset account holder.

(d) "Knowledge of death" means: (1) Receipt of an original or valid copy of a certified death certificate; or (2) a death master file match validated by the insurer in accordance with section 3(a), and amendments thereto.

(e) "Policy" means any policy or certificate of life insurance that provides a death benefit. The term "policy" shall not include: (1) Any policy or certificate of life insurance that provides a death benefit under an employee benefit plan: (A) Subject to the employee retirement income security act of 1974 (29 U.S.C. § 1002); or (B) under any federal employee benefit program; (2) any policy or certificate of life insurance that is used to fund a preneed funeral contract or prearrangement; (3) any policy or certificate of credit life or accidental death insurance; or (4) any policy issued to a group master policyholder for which the insurer does not provide record keeping services.

(f) "Record keeping services" means those circumstances under which the insurer has agreed with a group policy or contract customer to be responsible for obtaining, maintaining and administering in its own or its agents' systems information about each individual insured under an insured's group insurance contract, or a line of coverage thereunder, at least the following information: (1) Social security number or name and date of birth; (2) beneficiary designation information; (3) coverage eligibility; (4) benefit amount; and (5) premium payment status.

(g) "Retained asset account" means any mechanism whereby the settlement of proceeds payable under a policy or contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with check or draft writing privileges, where those proceeds are retained by the insurer or its agent, pursuant to a supplementary contract not involving annuity benefits other than death benefits.

(h) The provisions of this section shall take effect on and after July 1, 2019.

New Sec. 3. (a) An insurer shall perform a comparison of its insureds' in-force policies, contracts, and retained asset accounts against a death master file, on at least a

semi-annual basis, by using the full death master file once and thereafter using the death master file update files for future comparisons to identify potential matches of its insureds. For those potential matches identified as a result of a death master file match, the insurer shall:

- (1) Within 90 days of a death master file match:
  - (A) Complete a good faith effort that shall be documented by the insurer to confirm the death of the insured or retained asset account holder against other available records and information;
  - (B) determined whether benefits are due in accordance with the applicable policy or contract. If benefits are due in accordance with the applicable policy or contract:
    - (i) Use good faith efforts that shall all be documented by the insurer to locate the beneficiary or beneficiaries; and
    - (ii) provide the appropriate claim forms or instructions to the beneficiary or beneficiaries to make a claim including the need to provide an official death certificate, if applicable under the policy contract.
  - (2) With respect to group life insurance, insurers shall confirm the possible death of an insured when the insurers maintain at least the following information of those covered under a policy or certificate: (A) Social security number or name and date of birth; (B) beneficiary designation information; (C) coverage eligibility; (D) benefit amount; and (E) premium payment status.
- (3) Every insurer shall implement procedures to account for:
  - (A) Common nicknames, initials used in lieu of a first or middle name, use of a middle name, compound first and middle names and interchanged first and middle names;
  - (B) compound last names, maiden or married names, and hyphens, blank spaces or apostrophes in last names;
  - (C) transposition of the month and date portions of the date of birth; and
  - (D) incomplete social security numbers.
- (4) To the extent permitted by law, the insurer may disclose minimum, necessary personal information about the insured or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer locate the beneficiary or a person otherwise entitled to payment of the claims proceeds.
  - (b) An insurer or its service provider shall not charge any beneficiary or other authorized representative for any fees or costs associated with a death master file search or verification of a death master file match conducted pursuant to this section.
  - (c) The benefits from a policy, contract or a retained asset account, plus any applicable accrued contractual interest shall first be payable to the designated beneficiaries or owners, and in the event the beneficiaries or owners can not be found, shall escheat to the state as unclaimed property pursuant to K.S.A. 58-3936, and amendments thereto. Interest payable under K.S.A. 40-447, and amendments thereto, shall not be payable as unclaimed property.

(d) An insurer shall notify the state treasurer upon the expiration of the statutory time period for escheat that:

(1) A policy or contract beneficiary or retained asset account holder has not submitted a claim with the insurer; and

(2) the insurer has complied with subsection (a) and has been unable, after good faith efforts, documented by the insurer, to contact the retained asset account holder, beneficiary or beneficiaries.

(e) Upon such notice, an insurer shall immediately submit the unclaimed policy or contract benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the state treasurer in accordance with the unclaimed property act.

(f) Failure to meet any requirement of this section with such frequency as to constitute a general business practice shall be considered an unfair or deceptive act or practice under K.S.A. 40-2404, and amendments thereto, and subject to the penalties contained under K.S.A. 40-2401 et seq., and amendments thereto. Nothing herein shall be construed to create or imply a private cause of action for a violation of this section.

(g) The provisions of this section shall take effect on and after July 1, 2019.

Sec. 4. On and after July 1, 2019, K.S.A. 2018 Supp. 40-2404 is hereby amended to read as follows: 40-2404. The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(1) *Misrepresentations and false advertising of insurance policies.* Making, issuing, circulating or causing to be made, issued or circulated, any estimate, illustration, circular, statement, sales presentation, omission or comparison ~~which that~~:

(a) Misrepresents the benefits, advantages, conditions or terms of any insurance policy;

(b) misrepresents the dividends or share of the surplus to be received on any insurance policy;

(c) makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy;

(d) is misleading or is a misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurer operates;

(e) uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof;

(f) is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion or surrender of any insurance policy;

(g) is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy; or

(h) misrepresents any insurance policy as being shares of stock.

(2) *False information and advertising generally.* Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, misrepresentation or statement with respect to the business of insurance or with respect to any person in

the conduct of such person's insurance business, ~~which that~~ is untrue, deceptive or misleading.

(3) *Defamation.* Making, publishing, disseminating or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature ~~which that~~ is false, or maliciously critical of or derogatory to the financial condition of any person, and ~~which that~~ is calculated to injure such person.

(4) *Boycott, coercion and intimidation.* Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of the business of insurance, or by any act of boycott, coercion or intimidation monopolizing or attempting to monopolize any part of the business of insurance.

(5) *False statements and entries.* (a) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or knowingly causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false material statement of fact as to the financial condition of a person.

(b) Knowingly making any false entry of a material fact in any book, report or statement of any person or knowingly omitting to make a true entry of any material fact pertaining to the business of such person in any book, report or statement of such person.

(6) *Stock operations and advisory board contracts.* Issuing or delivering or permitting agents, officers or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance. Nothing herein shall prohibit the acts permitted by K.S.A. 40-232, and amendments thereto.

(7) *Unfair discrimination.* (a) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(b) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

(c) Refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available to an individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness. With respect to all other conditions, including the underlying cause of the blindness or partial blindness, persons who are blind or partially blind shall be subject to the same standards of sound actuarial principles or actual or reasonably anticipated experience as are sighted persons. Refusal to insure includes denial by an insurer of disability insurance coverage on the grounds that the policy defines "disability" as being presumed in the event that the insured loses such person's eyesight. However, an insurer may exclude from coverage disabilities consisting solely of blindness or partial

blindness when such condition existed at the time the policy was issued.

(d) Refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available for accident and health and life insurance to an applicant who is the proposed insured or charge a different rate for the same coverage or excluding or limiting coverage for losses or denying a claim incurred by an insured as a result of abuse based on the fact that the applicant who is the proposed insured is, has been, or may be the subject of domestic abuse, except as provided in ~~subpart (v) subsection (7)(d)(v)~~. "Abuse" as used in this ~~subsection (7)(d) paragraph~~ means one or more acts defined in ~~subsection (a) or (b)~~ of K.S.A. 60-3102, and amendments thereto, between family members, current or former household members, or current or former intimate partners.

(i) An insurer may not ask an applicant for life or accident and health insurance who is the proposed insured if the individual is, has been or may be the subject of domestic abuse or seeks, has sought or had reason to seek medical or psychological treatment or counseling specifically for abuse, protection from abuse or shelter from abuse.

(ii) Nothing in this section shall be construed to prohibit a person from declining to issue an insurance policy insuring the life of an individual who is, has been or has the potential to be the subject of abuse if the perpetrator of the abuse is the applicant or would be the owner of the insurance policy.

(iii) No insurer that issues a life or accident and health policy to an individual who is, has been or may be the subject of domestic abuse shall be subject to civil or criminal liability for the death or any injuries suffered by that individual as a result of domestic abuse.

(iv) No person shall refuse to insure, refuse to continue to insure, limit the amount, extent or kind of coverage available to an individual or charge a different rate for the same coverage solely because of physical or mental condition, except where the refusal, limitation or rate differential is based on sound actuarial principles.

(v) Nothing in this section shall be construed to prohibit a person from underwriting or rating a risk on the basis of a preexisting physical or mental condition, even if such condition has been caused by abuse, provided that:

(A) The person routinely underwrites or rates such condition in the same manner with respect to an insured or an applicant who is not a victim of abuse;

(B) the fact that an individual is, has been or may be the subject of abuse may not be considered a physical or mental condition; and

(C) such underwriting or rating is not used to evade the intent of this section or any other provision of the Kansas insurance code.

(vi) Any person who underwrites or rates a risk on the basis of preexisting physical or mental condition as set forth in subsection (7)(d)(v), shall treat such underwriting or rating as an adverse underwriting decision pursuant to K.S.A. 40-2,112, and amendments thereto.

(vii) The provisions of ~~subsection (d) this paragraph~~ shall apply to all policies of life and accident and health insurance issued in this state after the effective date of this act and all existing contracts ~~which that~~ are renewed on or after the effective date of this act.

(e) Refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available for life insurance to an individual, or charging an

individual a different rate for the same coverage, solely because of such individual's status as a living organ donor. With respect to all other conditions, persons who are living organ donors shall be subject to the same standards of sound actuarial principles or actual or reasonably anticipated experience as are persons who are not organ donors.

(8) *Rebates.* (a) Except as otherwise expressly provided by law, knowingly permitting, offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon; paying, allowing, giving or offering to pay, allow or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, selling, purchasing or offering to give, sell or purchase as inducement to such insurance contract or annuity or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

(b) Nothing in subsection (7) or (8)(a) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(i) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance. Any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;

(ii) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount ~~which~~ that fairly represents the saving in collection expenses; or

(iii) readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

(9) *Unfair claim settlement practices.* It is an unfair claim settlement practice if any of the following or any rules and regulations pertaining thereto are: ~~(A)~~ either committed flagrantly and in conscious disregard of such provisions, or ~~(B)~~ committed with such frequency as to indicate a general business practice-;

(a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

(b) failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(c) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(d) refusing to pay claims without conducting a reasonable investigation based upon all available information;

(e) failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(f) not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

(g) compelling insureds to institute litigation to recover amounts due under an

insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(h) attempting to settle a claim for less than the amount to which a reasonable person would have believed that such person was entitled by reference to written or printed advertising material accompanying or made part of an application;

(i) attempting to settle claims on the basis of an application ~~which that~~ was altered without notice to, or knowledge or consent of the insured;

(j) making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made;

(k) making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(l) delaying the investigation or payment of claims by requiring an insured, claimant or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(m) failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or

(n) failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(10) *Failure to maintain complaint handling procedures.* Failure of any person, who is an insurer on an insurance policy, to maintain a complete record of all the complaints ~~which that~~ it has received since the date of its last examination under K.S.A. 40-222, and amendments thereto; but no such records shall be required for complaints received prior to the effective date of this act. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaints, the date each complaint was originally received by the insurer and the date of final disposition of each complaint. For purposes of this subsection, "complaint" means any written communication primarily expressing a grievance related to the acts and practices set out in this section.

(11) *Misrepresentation in insurance applications.* Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money or other benefit from any insurer, agent, broker or individual.

(12) *Statutory violations.* Any violation of any of the provisions of K.S.A. 40-216, 40-276a, 40-2,155 or 40-1515, and amendments thereto.

(13) *Disclosure of information relating to adverse underwriting decisions and refund of premiums.* Failing to comply with the provisions of K.S.A. 40-2,112, and amendments thereto, within the time prescribed in such section.

(14) *Rebates and other inducements in title insurance.* (a) No title insurance company or title insurance agent, or any officer, employee, attorney, agent or solicitor thereof, may pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to obtaining any title insurance business, any rebate, reduction or abatement of any rate or charge made incident to the issuance of such insurance, any special favor or advantage not generally available to others of the same classification, or

any money, thing of value or other consideration or material inducement. The words "charge made incident to the issuance of such insurance" includes, without limitations, escrow, settlement and closing charges.

(b) No insured named in a title insurance policy or contract nor any other person directly or indirectly connected with the transaction involving the issuance of the policy or contract, including, but not limited to, mortgage lender, real estate broker, builder, attorney or any officer, employee, agent representative or solicitor thereof, or any other person may knowingly receive or accept, directly or indirectly, any rebate, reduction or abatement of any charge, or any special favor or advantage or any monetary consideration or inducement referred to in subsection (14)(a).

(c) Nothing in this section shall be construed as prohibiting:

(i) The payment of reasonable fees for services actually rendered to a title insurance agent in connection with a title insurance transaction;

(ii) the payment of an earned commission to a duly appointed title insurance agent for services actually performed in the issuance of the policy of title insurance; or

(iii) the payment of reasonable entertainment and advertising expenses.

(d) Nothing in this section prohibits the division of rates and charges between or among a title insurance company and its agent, or one or more title insurance companies and one or more title insurance agents, if such division of rates and charges does not constitute an unlawful rebate under the provisions of this section and is not in payment of a forwarding fee or a finder's fee.

(e) As used in ~~paragraphs (c) through (i)(7) of this subpart~~ subsections (14)(c) through (14)(i), unless the context otherwise requires:

(i) "Associate" means any firm, association, organization, partnership, business trust, corporation or other legal entity organized for profit in which a producer of title business is a director, officer or partner thereof, or owner of a financial interest; the spouse or any relative within the second degree by blood or marriage of a producer of title business who is a natural person; any director, officer or employee of a producer of title business or associate; any legal entity that controls, is controlled by, or is under common control with a producer of title business or associate; and any natural person or legal entity with whom a producer of title business or associate has any agreement, arrangement or understanding or pursues any course of conduct, the purpose or effect of which is to evade the provisions of this section.

(ii) "Financial interest" means any direct or indirect interest, legal or beneficial, where the holder thereof is or will be entitled to 1% or more of the net profits or net worth of the entity in which such interest is held. Notwithstanding the foregoing, an interest of less than 1% or any other type of interest shall constitute a "financial interest" if the primary purpose of the acquisition or retention of that interest is the financial benefit to be obtained as a consequence of that interest from the referral of title business.

(iii) "Person" means any natural person, partnership, association, cooperative, corporation, trust or other legal entity.

(iv) "Producer of title business" or "producer" means any person, including any officer, director or owner of 5% or more of the equity or capital or both of any person, engaged in this state in the trade, business, occupation or profession of:

(A) Buying or selling interests in real property;

(B) making loans secured by interests in real property; or



(C) acting as broker, agent, representative or attorney for a person who buys or sells any interest in real property or who lends or borrows money with such interest as security.

(v) "Refer" means to direct or cause to be directed or to exercise any power or influence over the direction of title insurance business, whether or not the consent or approval of any other person is sought or obtained with respect to the referral.

(f) No title insurer or title agent may accept any order for, issue a title insurance policy to, or provide services to, an applicant if it knows or has reason to believe that the applicant was referred to it by any producer of title business or by any associate of such producer, where the producer, the associate, or both, have a financial interest in the title insurer or title agent to which business is referred unless the producer has disclosed to the buyer, seller and lender the financial interest of the producer of title business or associate referring the title insurance business.

(g) No title insurer or title agent may accept an order for title insurance business, issue a title insurance policy, or receive or retain any premium, or charge in connection with any transaction if: (i) The title insurer or title agent knows or has reason to believe that the transaction will constitute controlled business for that title insurer or title agent; and (ii) 70% or more of the closed title orders of that title insurer or title agent during the 12 full calendar months immediately preceding the month in which the transaction takes place is derived from controlled business. The prohibitions contained in this ~~subparagraph~~ paragraph shall not apply to transactions involving real estate located in a county that has a population, as shown by the last preceding decennial census, of 10,000 or less.

(h) Within 90 days following the end of each business year, as established by the title insurer or title agent, each title insurer or title agent shall file with the department of insurance and any title insurer with which the title agent maintains an underwriting agreement, a report executed by the title insurer's or title agent's chief executive officer or designee, under penalty of perjury, stating the percent of closed title orders originating from controlled business. The failure of a title insurer or title agent to comply with the requirements of this section, at the discretion of the commissioner, shall be grounds for the suspension or revocation of a license or other disciplinary action, with the commissioner able to mitigate any such disciplinary action if the title insurer or title agent is found to be in substantial compliance with competitive behavior as defined by federal housing and urban development statement of policy 1996-2.

(i) (1) No title insurer or title agent may accept any title insurance order or issue a title insurance policy to any person if it knows or has reason to believe that such person was referred to it by any producer of title business or by any associate of such producer, where the producer, the associate, or both, have a financial interest in the title insurer or title agent to which business is referred unless the producer has disclosed in writing to the person so referred the fact that such producer or associate has a financial interest in the title insurer or title agent, the nature of the financial interest and a written estimate of the charge or range of charges generally made by the title insurer or agent for the title services. Such disclosure shall include language stating that the consumer is not obligated to use the title insurer or agent in which the referring producer or associate has a financial interest and shall include the names and telephone numbers of not less than three other title insurers or agents ~~which that~~ operate in the county in which the property is located. If fewer than three insurers or agents operate in that county, the

disclosure shall include all title insurers or agents operating in that county. Such written disclosure shall be signed by the person so referred and must have occurred prior to any commitment having been made to such title insurer or agent.

(2) No producer of title business or associate of such producer shall require, directly or indirectly, as a condition to selling or furnishing any other person any loan or extension thereof, credit, sale, property, contract, lease or service, that such other person shall purchase title insurance of any kind through any title agent or title insurer if such producer has a financial interest in such title agent or title insurer.

(3) No title insurer or title agent may accept any title insurance order or issue a title insurance policy to any person it knows or has reason to believe that the name of the title company was pre-printed in the sales contract, prior to the buyer or seller selecting that title company.

(4) Nothing in this ~~subpart (i) paragraph~~ shall prohibit any producer of title business or associate of such producer from referring title business to any title insurer or title agent of such producer's or associate's choice, and, if such producer or associate of such producer has any financial interest in the title insurer, from receiving income, profits or dividends produced or realized from such financial interest, so long as:

(a) Such financial interest is disclosed to the purchaser of the title insurance in accordance with ~~part paragraphs (i)(1) through (i)(4) of this subpart;~~

(b) the payment of income, profits or dividends is not in exchange for the referral of business; and

(c) the receipt of income, profits or dividends constitutes only a return on the investment of the producer or associate.

(5) Any producer of title business or associate of such producer who violates the provisions of paragraphs (i)(2) through (i)(4), or any title insurer or title agent who accepts an order for title insurance knowing that it is in violation of paragraphs (i)(2) through (i)(4), in addition to any other action ~~which that~~ may be taken by the commissioner of insurance, shall be subject to a fine by the commissioner in an amount equal to five times the premium for the title insurance and, if licensed pursuant to K.S.A. 58-3034 et seq., and amendments thereto, shall be deemed to have committed a prohibited act pursuant to K.S.A. 58-3602, and amendments thereto, and shall be liable to the purchaser of such title insurance in an amount equal to the premium for the title insurance.

(6) Any title insurer or title agent that is a competitor of any title insurer or title agent that, subsequent to the effective date of this act, has violated or is violating the provisions of ~~subpart (i) this paragraph~~, shall have a cause of action against such title insurer or title agent and, upon establishing the existence of a violation of any such provision, shall be entitled, in addition to any other damages or remedies provided by law, to such equitable or injunctive relief as the court deems proper. In any such action under this subsection, the court may award to the successful party the court costs of the action together with reasonable attorney fees.

(7) The commissioner shall also require each title agent to provide core title services as required by the real estate settlement procedures act.

(j) The commissioner shall adopt any regulations necessary to carry out the provisions of this act.

(15) *Disclosure of nonpublic personal information.* (a) No person shall disclose any nonpublic personal information contrary to the provisions of title V of the Gramm-

Leach-Bliley act of 1999 (public law 106-102). The commissioner may adopt rules and regulations necessary to carry out this ~~section~~ subsection. Such rules and regulations shall be consistent with and not more restrictive than the model regulation adopted on September 26, 2000, by the national association of insurance commissioners entitled "Privacy of consumer financial and health information regulation".

~~(b) Any rules and regulations adopted by the commissioner which implement article V of the model regulation adopted on September 26, 2000, by the national association of insurance commissioners entitled "Privacy of consumer financial and health information regulation" shall become effective on and after February 1, 2002.~~

~~(e) Nothing in this paragraph (15) subsection shall be deemed or construed to authorize the promulgation or adoption of any regulation which that preempts, supersedes or is inconsistent with any provision of Kansas law concerning requirements for notification of, or obtaining consent from, a parent, guardian or other legal custodian of a minor relating to any matter pertaining to the health and medical treatment for such minor.~~

Sec. 5. On and after July 1, 2019, K.S.A. 2018 Supp. 40-3812 is hereby amended to read as follows: 40-3812. (a) A person shall apply to be an administrator in its home state and shall receive a license from the regulatory authority of its home state prior to performing any function of an administrator in this state.

(b) A person applying to Kansas as its home state shall apply for licensure by submitting to the commissioner an application in the form prescribed by the commissioner that shall include or be accompanied by the following information and documents:

(1) All basic organizational documents of the applicant, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, certificate of existence from the Kansas secretary of state and other applicable documents and all amendments to such documents;

(2) the bylaws, rules, regulations or similar documents regulating the internal affairs of the applicant;

(3) NAIC biographical affidavits for the individuals who are directly or indirectly responsible for the conduct of affairs of the applicant, including all members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers in the case of a corporation or the partners or members in the case of a partnership, association or limited liability company, any shareholders or members holding directly or indirectly 10% or more of the voting stock, voting securities or voting interest of the applicant and any other person who directly or indirectly exercises control or influence over the affairs of the applicant;

(4) audited annual financial statements or reports for the two most recent fiscal years that demonstrate that the applicant has a positive net worth. If the applicant has been in existence for less than two fiscal years, the uniform application shall include financial statements or reports, certified by at least two officers, owners or directors of the applicant and prepared in accordance with GAAP, for any completed fiscal years and for any month during the current fiscal year for which such financial statements or reports have been completed. An audited annual financial report prepared on a consolidated basis shall include a columnar consolidating or combining worksheet that shall be filed with the report and include the following:

(A) Amounts shown on the consolidated audited financial report shown on the worksheet;

(B) amounts for each entity stated separately; and

(C) explanations of consolidating and eliminating entries included.

The applicant shall also include such other information as the commissioner may require in order to review the current financial condition of the applicant;

(5) in lieu of submitting audited financial statements, and upon written application by an applicant and good cause shown, the commissioner may grant a hardship exemption from filing audited financial statements and allow the submission of unaudited financial statements. Acceptable formats for unaudited financial statements, that shall include notes, are:

(A) Reports compiled or reviewed by a certified public accountant; or

(B) internal financial reports prepared in accordance with GAAP, certified by at least two officers, owners or directors of the administrator.

If unaudited financial statements are submitted, the applicant must also secure and maintain a surety bond in a form prescribed by the commissioner for the use and benefit of the commissioner to be held in trust for the benefit and protection of covered persons and any payor or self-funded plan against loss by reason of acts of fraud or dishonesty, for the greater of 10% of funds handled for the benefit of Kansas residents or \$20,000. Administrators of self-funded plans in Kansas are subject to the mandatory surety bond requirement found in subsection (h), regardless of whether they file audited or unaudited financial reports;

(6) a statement describing the business plan, including information on staffing levels and activities, proposed in this state and nationwide. The plan shall provide details setting forth the applicant's capability for providing a sufficient number of experienced and qualified personnel in the areas of claims processing, record keeping and underwriting;

(7) ~~the~~ a license application fee ~~as provided for by rules and regulations in the amount of \$400;~~ and

(8) such other pertinent information as may be required by the commissioner.

(c) An administrator licensed or applying for licensure under the provisions of this section shall make available for inspection by the commissioner, copies of all contracts with payors or other persons utilizing the services of the administrator.

(d) An administrator licensed or applying for licensure under the provisions of this section shall produce its accounts, records and files for examination, and makes its officers available to give information with respect to its affairs, as often as reasonably required by the commissioner.

(e) The commissioner may refuse to issue a license if the commissioner determines that the applicant or any individual responsible for the conduct of affairs of the applicant is not competent, trustworthy, financially responsible or of good personal and business reputation, or has had an insurance or an administrator certificate of authority or license denied or revoked for cause by any jurisdiction, or if the commissioner determines that any of the grounds set forth in K.S.A. 40-3810, and amendments thereto, exist with respect to the applicant.

(f) A license issued under this section shall remain valid, unless surrendered, suspended or revoked by the commissioner, for so long as the administrator continues in business in this state and remains in compliance with the provisions of this act and any

applicable rules and regulations.

(g) An administrator licensed or applying for licensure under the provisions of this section shall immediately notify the commissioner of any material change in its ownership, control or other fact or circumstance affecting its qualification for a license in this state.

(h) An administrator licensed or applying for a home state license that administers or will administer governmental or church self-insured plans in this state or any other state shall maintain a surety bond for the use and benefit of the commissioner to be held in trust for the benefit and protection of covered persons and any payor or self-funded plan against loss by reason of acts of fraud or dishonesty. The bond shall be in the greater of the following amounts:

- (1) \$100,000; or
- (2) an amount equal to 10% of the aggregate total amount of self-funded coverage under church plans or governmental plans handled in this state and all additional states in which the administrator is authorized to do business.

Sec. 6. On and after July 1, 2019, K.S.A. 2018 Supp. 40-3813 is hereby amended to read as follows: 40-3813. (a) Unless an administrator has obtained a home state license in this state, any administrator who performs duties as an administrator in this state shall obtain a nonresident administrator license in accordance with the provisions of this section by filing with the commissioner the uniform application, accompanied by a letter of certification. In lieu of requiring an administrator to file a letter of certification with the uniform application, the commissioner may verify the nonresident administrator's home state certificate of authority or license status through an electronic database maintained by the NAIC, its affiliates or subsidiaries.

(b) An administrator shall not be eligible for a nonresident administrator license under the provisions of this section if it does not hold a license in a home state that has adopted a substantially similar law governing administrators.

(c) Except as provided in subsections (b) and (h) the commissioner shall issue to the administrator a nonresident administrator license promptly upon receipt of a complete application.

(d) Each nonresident administrator shall file biennially, as a part of its application for renewal of its license, a statement that its home state administrator license remains in force and has not been revoked or suspended by its home state during the preceding years. Each nonresident administrator renewal application shall be accompanied by a renewal application fee in the amount of \$200.

(e) At the time of filing the application for licensing required under the provisions of this section, the nonresident administrator shall pay a license application fee ~~as provided for by rules and regulations~~ in the amount of \$400.

(f) An administrator licensed or applying for licensure under the provisions of this section shall produce its accounts, records and files for examination, and make its officers available to give information with respect to its affairs, as often as reasonably required by the commissioner.

(g) A nonresident administrator is not required to hold a nonresident administrator license in this state if the administrator is licensed in its home state and the administrator's duties in this state are limited to:

- (1) The administration of a group policy or plan and no more than a total of 20% of covered persons, for all plans the administrator services, reside in this state; and

(2) the total number of covered persons residing in this state is less than 100.

(h) The commissioner may refuse to issue a nonresident administrator license, or delay the issuance of a nonresident administrator license, if the commissioner determines that, due to events or information obtained subsequent to the home state's licensure of the administrator, the nonresident administrator cannot satisfy the requirements of this act or that grounds exist for the home state's revocation or suspension of the administrator's home state certificate of authority or license.

Sec. 7. On and after July 1, 2019, K.S.A. 2018 Supp. 40-3814 is hereby amended to read as follows: 40-3814. (a) Each administrator licensed under the provisions of this act shall file an annual report for the preceding calendar year with the commissioner on or before July 1 of each year, or within such extension of time as the commissioner may grant for good cause, accompanied by an annual report fee in the amount of \$100. The annual report shall include:

(1) An audited financial statement attested to by an independent certified public accountant. An audited annual financial report prepared on a consolidated basis shall include a columnar consolidating or combining worksheet that shall be filed with the report and include the following:

(A) Amounts shown on the consolidated audited financial report shown on the worksheet;

(B) amounts for each entity stated separately; and

(C) explanations of consolidating and eliminating entries included.

(2) In lieu of submitting an audited financial statement, and upon written application by an administrator and good cause shown, the commissioner may grant a hardship exemption from filing audited financial statements and allow the submission of unaudited financial statements. Acceptable formats for unaudited financial statements, that shall include notes, are:

(A) Reports compiled or reviewed by a certified public accountant; or

(B) internal financial reports prepared in accordance with GAAP, certified by at least two officers, owners or directors of the administrator.

If unaudited financial statements are submitted, the administrator must secure and maintain a surety bond in a form prescribed by the commissioner for the use and benefit of the commissioner to be held in trust for the benefit and protection of covered persons and any payor or self-funded plan against loss by reason of acts of fraud or dishonesty, for the greater of 10% of funds handled for the benefit of Kansas residents or \$20,000.

(b) The annual report shall be in the form and contain such matters as the commissioner prescribes and shall be verified by at least two officers, owners or directors of the administrator.

(c) The annual report shall include the complete names and addresses of all payors and for self-funded plans, all employers and trusts, with which the administrator had agreements during the preceding fiscal year. The report shall also include the number of Kansas residents covered by each of the plans.

Sec. 8. K.S.A. 2018 Supp. 40-2209 is hereby amended to read as follows: 40-2209.

(a) (1) Group sickness and accident insurance is declared to be that form of sickness and accident insurance covering groups of persons, with or without one or more members of their families or one or more dependents. Except at the option of the employee or member and except employees or members enrolling in a group policy after the close of an open enrollment opportunity, no individual employee or member of an insured group

and no individual dependent or family member may be excluded from eligibility or coverage under a policy providing hospital, medical or surgical expense benefits both with respect to policies issued or renewed within this state and with respect to policies issued or renewed outside this state covering persons residing in this state. For purposes of this section, an open enrollment opportunity shall be deemed to be a period no less favorable than a period beginning on the employee's or member's date of initial eligibility and ending 31 days thereafter.

(2) An eligible employee, member or dependent who requests enrollment following the open enrollment opportunity or any special enrollment period for dependents as specified in ~~subsection paragraph~~ (3) shall be considered a late enrollee. An accident and sickness insurer may exclude a late enrollee, except during an open enrollment period. However, an eligible employee, member or dependent shall not be considered a late enrollee if:

(A) The individual:

(i) Was covered under another group policy which provided hospital, medical or surgical expense benefits or was covered under section 607(1) of the employee retirement income security act of 1974 (ERISA) at the time the individual was eligible to enroll;

(ii) states in writing, at the time of the open enrollment period, that coverage under another group policy ~~which that~~ provided hospital, medical or surgical expense benefits was the reason for declining enrollment, but only if the group policyholder or the accident and sickness insurer required such a written statement and provided the individual with notice of the requirement for a written statement and the consequences of such written statement;

(iii) has lost coverage under another group policy providing hospital, medical or surgical expense benefits or under section 607(1) of the employee retirement income security act of 1974 (ERISA) as a result of the termination of employment, reduction in the number of hours of employment, termination of employer contributions toward such coverage, the termination of the other policy's coverage, death of a spouse or divorce or legal separation or was under a COBRA continuation provision and the coverage under such provision was exhausted; and

(iv) requests enrollment within 30 days after the termination of coverage under the other policy; or

(B) a court has ordered coverage to be provided for a spouse or minor child under a covered employee's or member's policy.

(3) (A) If an accident and sickness insurer issues a group policy providing hospital, medical or surgical expenses and makes coverage available to a dependent of an eligible employee or member and such dependent becomes a dependent of the employee or member through marriage, birth, adoption or placement for adoption, then such group policy shall provide for a dependent special enrollment period as described in subsection (3)(B) of this section during which the dependent may be enrolled under the policy and in the case of the birth or adoption of a child, the spouse of an eligible employee or member may be enrolled if otherwise eligible for coverage.

(B) A dependent special enrollment period under this subsection shall be a period of not less than 30 days and shall begin on the later of: (i) The date such dependent coverage is made available; or (ii) the date of the marriage, birth or adoption or placement for adoption.

(C) If an eligible employee or member seeks to enroll a dependent during the first 30 days of such a dependent special enrollment period, the coverage of the dependent shall become effective: (i) In the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received; (ii) in the case of the birth of a dependent, as of the date of such birth; or (iii) in the case of a dependent's adoption or placement for adoption, the date of such adoption or placement for adoption.

(4) (A) No group policy providing hospital, medical or surgical expense benefits issued or renewed within this state or issued or renewed outside this state covering residents within this state shall limit or exclude benefits for specific conditions existing at or prior to the effective date of coverage thereunder. Such policy may impose a preexisting conditions exclusion, not to exceed 90 days following the date of enrollment for benefits for conditions whether mental or physical, regardless of the cause of the condition for which medical advice, diagnosis, care or treatment was recommended or received in the 90 days prior to the effective date of enrollment. Any preexisting conditions exclusion shall run concurrently with any waiting period.

(B) Such policy may impose a waiting period after full-time employment starts before an employee is first eligible to enroll in any applicable group policy.

(C) A health maintenance organization ~~which that~~ offers such policy ~~which that~~ does not impose any preexisting conditions exclusion may impose an affiliation period for such coverage, provided that: (i) Such application period is applied uniformly without regard to any health status related factors; and (ii) such affiliation period does not exceed two months. The affiliation period shall run concurrently with any waiting period under the plan.

(D) A health maintenance organization may use alternative methods from those described in this subsection to address adverse selection if approved by the commissioner.

(E) For the purposes of this section, the term "preexisting conditions exclusion" shall mean, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage whether or not any medical advice, diagnosis, care or treatment was recommended or received before such date.

(F) For the purposes of this section, the term "date of enrollment" means the date the individual is enrolled under the group policy or, if earlier, the first day of the waiting period for such enrollment.

(G) For the purposes of this section, the term "waiting period" means with respect to a group policy the period ~~which that~~ must pass before the individual is eligible to be covered for benefits under the terms of the policy.

(5) Genetic information shall not be treated as a preexisting condition in the absence of a diagnosis of the condition related to such information.

(6) A group policy providing hospital, medical or surgical expense benefits may not impose any preexisting condition exclusion relating to pregnancy as a preexisting condition.

(7) A group policy providing hospital, medical or surgical expense benefits may not impose any preexisting condition waiting period in the case of a child who is adopted or placed for adoption before attaining 18 years of age and who, as of the last day of a 30-day period beginning on the date of the adoption or placement for adoption, is covered



by a policy specified in subsection (a). This subsection shall not apply to coverage before the date of such adoption or placement for adoption.

(8) Such policy shall waive such a preexisting conditions exclusion to the extent the employee or member or individual dependent or family member was covered by: (A) A group or individual sickness and accident policy; (B) coverage under section 607(1) of the employees retirement income security act of 1974 (ERISA); (C) a group specified in K.S.A. 40-2222, and amendments thereto; (D) part A or part B of title XVIII of the social security act; (E) title XIX of the social security act, other than coverage consisting solely of benefits under section 1928; (F) a state children's health insurance program established pursuant to title XXI of the social security act; (G) chapter 55 of title 10 United States code; (H) a medical care program of the Indian health service or of a tribal organization; (I) the Kansas uninsurable health plan act pursuant to K.S.A. 40-2217 et seq., and amendments thereto, or a similar health benefits risk pool of another state; (J) a health plan offered under chapter 89 of title 5, United States code; (K) a health benefit plan under section 5(e) of the peace corps act (22 U.S.C. § 2504(e)); or (L) a group subject to K.S.A. 12-2616 et seq., and amendments thereto, ~~which that~~ provided hospital, medical and surgical expense benefits within 63 days prior to the effective date of coverage with no gap in coverage. A group policy shall credit the periods of prior coverage specified in subsection (a)(7) without regard to the specific benefits covered during the period of prior coverage. Any period that the employee or member is in a waiting period for any coverage under a group health plan or is in an affiliation period shall not be taken into account in determining the continuous period under this subsection.

(b) (1) An accident and sickness insurer which offers group policies providing hospital, medical or surgical expense benefits shall provide a certification as described in subsection (b)(2): (A) At the time an eligible employee, member or dependent ceases to be covered under such policy or otherwise becomes covered under a COBRA continuation provision; (B) in the case of an eligible employee, member or dependent being covered under a COBRA continuation provision, at the time such eligible employee, member or dependent ceases to be covered under a COBRA continuation provision; and (C) on the request on behalf of such eligible employee, member or dependent made not later than 24 months after the date of the cessation of the coverage described in ~~subsection (b) paragraph (1)(A) or (b)(1)(B)~~, whichever is later.

(2) The certification described in this subsection is a written certification of: (A) The period of coverage under a policy specified in subsection (a) and any coverage under such COBRA continuation provision; and (B) any waiting period imposed with respect to the eligible employee, member or dependent for any coverage under such policy.

(c) Any group policy may impose participation requirements, define full-time employees or members and otherwise be designed for the group as a whole through negotiations between the group sponsor and the insurer to the extent such design is not contrary to or inconsistent with this act.

(d) (1) An accident and sickness insurer offering a group policy providing hospital, medical or surgical expense benefits must renew or continue in force such coverage at the option of the policyholder or certificateholder except as provided in paragraph (2) below.

(2) An accident and sickness insurer may nonrenew or discontinue coverage under

a group policy providing hospital, medical or surgical expense benefits based only on one or more of the following circumstances:

(A) If the policyholder or certificateholder has failed to pay any premium or contributions in accordance with the terms of the group policy providing hospital, medical or surgical expense benefits or the accident and sickness insurer has not received timely premium payments;

(B) if the policyholder or certificateholder has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of such coverage;

(C) if the policyholder or certificateholder has failed to comply with a material plan provision relating to employer contribution or group participation rules;

(D) if the accident and sickness insurer is ceasing to offer coverage in such group market in accordance with ~~subsections~~ subsection (d)(3) or ~~(d)~~(4);

(E) in the case of accident and sickness insurer that offers coverage under a policy providing hospital, medical or surgical expense benefits through an enrollment area, there is no longer any eligible employee, member or dependent in connection with such policy who lives, resides or works in the medical service enrollment area of the accident and sickness insurer or in the area for which the accident and sickness insurer is authorized to do business; or

(F) in the case of a group policy providing hospital, medical or surgical expense benefits ~~which that~~ is offered through an association or trust pursuant to ~~subsections~~ subsection (f)(3) or ~~(f)~~(5), the membership of the employer in such association or trust ceases but only if such coverage is terminated uniformly without regard to any health status related factor relating to any eligible employee, member or dependent.

(3) In any case in which an accident and sickness insurer ~~which that~~ offers a group policy providing hospital, medical or surgical expense benefits decides to discontinue offering such type of group policy, such coverage may be discontinued only if:

(A) The accident and sickness insurer notifies all policyholders and certificateholders and all eligible employees or members of such discontinuation at least 90 days prior to the date of the discontinuation of such coverage;

(B) the accident and sickness insurer offers to each policyholder who is provided such group policy providing hospital, medical or surgical expense benefits ~~which that~~ is being discontinued the option to purchase any other group policy providing hospital, medical or surgical expense benefits currently being offered by such accident and sickness insurer; and

(C) in exercising the option to discontinue coverage and in offering the option of coverage under subparagraph (B), the accident and sickness insurer acts uniformly without regard to the claims experience of those policyholders or certificateholders or any health status related factors relating to any eligible employee, member or dependent covered by such group policy or new employees or members who may become eligible for such coverage.

(4) If the accident and sickness insurer elects to discontinue offering group policies providing hospital, medical or surgical expense benefits or group coverage to a small employer pursuant to K.S.A. 40-2209f, and amendments thereto, such coverage may be discontinued only if:

(A) The accident and sickness insurer provides notice to the insurance commissioner, to all policyholders or certificateholders and to all eligible employees

and members covered by such group policy providing hospital, medical or surgical expense benefits at least 180 days prior to the date of the discontinuation of such coverage;

(B) all group policies providing hospital, medical or surgical expense benefits offered by such accident and sickness insurer are discontinued and coverage under such policies are not renewed; and

(C) the accident and sickness insurer may not provide for the issuance of any group policies providing hospital, medical or surgical expense benefits in the discontinued market during a five year period beginning on the date of the discontinuation of the last such group policy which is nonrenewed.

(e) An accident and sickness insurer offering a group policy providing hospital, medical or surgical expense benefits may not establish rules for eligibility (including continued eligibility) of any employee, member or dependent to enroll under the terms of the group policy based on any of the following factors in relation to the eligible employee, member or dependent: (A) Health status; (B) medical condition, including both physical and mental illness; (C) claims experience; (D) receipt of health care; (E) medical history; (F) genetic information; (G) evidence of insurability, including conditions arising out of acts of domestic violence; or (H) disability. This subsection shall not be construed to require a policy providing hospital, medical or surgical expense benefits to provide particular benefits other than those provided under the terms of such group policy or to prevent a group policy providing hospital, medical or surgical expense benefits from establishing limitations or restrictions on the amount, level, extent or nature of the benefits or coverage for similarly situated individuals enrolled under the group policy.

(f) Group accident and health insurance may be offered to a group under the following basis:

(1) Under a policy issued to an employer or trustees of a fund established by an employer, who is the policyholder, insuring at least two employees of such employer, for the benefit of persons other than the employer. The term "employees" shall include the officers, managers, employees and retired employees of the employer, the partners, if the employer is a partnership, the proprietor, if the employer is an individual proprietorship, the officers, managers and employees and retired employees of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners, employees and retired employees of individuals and firms, the business of which and of the insured employer is under common control through stock ownership contract, or otherwise. The policy may provide that the term "employees" may include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

(2) Under a policy issued to a labor union ~~which that~~ shall have a constitution and bylaws insuring at least 25 members of such union.

(3) Under a policy issued to the trustees of a fund established by two or more employers or business associations or by one or more labor unions or by one or more employers and one or more labor unions, which trustees shall be the policyholder, to insure employees of the employers or members of the union or members of the association for the benefit of persons other than the employers or the unions or the

associations. The term "employees" shall include the officers, managers, employees and retired employees of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(4) A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements: ~~(a) (A)~~ The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable in installments, or all of any class or classes determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness; ~~(b); and (B)~~ the premium for the policy shall be paid by the policyholder, either from the creditor's funds or from charges collected from the insured debtors, or from both.

(5) A policy issued to an association ~~which~~ that has been organized and is maintained for the purposes other than that of obtaining insurance, insuring ~~at least 25~~ members, employees, or employees of members of the association for the benefit of persons other than the association or its officers. The term "employees" shall include retired employees. The premiums for the policies shall be paid by the policyholder, either wholly from association funds; or funds contributed by the members of such association, or by employees of such members or any combination thereof.

(6) Under a policy issued to any other type of group which the commissioner of insurance may find is properly subject to the issuance of a group sickness and accident policy or contract.

(g) Each such policy shall contain in substance: (1) A provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or the insured's beneficiary.

(2) A provision setting forth the conditions under which an individual's coverage terminates under the policy, including the age, if any, to which an individual's coverage under the policy shall be limited, or, the age, if any, at which any additional limitations or restrictions are placed upon an individual's coverage under the policy.

(3) Provisions setting forth the notice of claim, proofs of loss and claim forms, physical examination and autopsy, time of payment of claims, to whom benefits are payable, payment of claims, change of beneficiary, and legal action requirements. Such provisions shall not be less favorable to the individual insured or the insured's beneficiary than those corresponding policy provisions required to be contained in individual accident and sickness policies.

(4) A provision that the insurer will furnish to the policyholder, for the delivery to each employee or member of the insured group, an individual certificate approved by the commissioner of insurance setting forth in summary form a statement of the essential features of the insurance coverage of such employee or member, the procedure to be followed in making claim under the policy and to whom benefits are payable. Such certificate shall also contain a summary of those provisions required under paragraphs (2) and (3) ~~of this subsection (g)~~ in addition to the other essential features of the insurance coverage. If dependents are included in the coverage, only one certificate

need be issued for each family unit.

(h) No group disability income policy ~~which that~~ integrates benefits with social security benefits, shall provide that the amount of any disability benefit actually being paid to the disabled person shall be reduced by changes in the level of social security benefits resulting either from changes in the social security law or due to cost of living adjustments which become effective after the first day for which disability benefits become payable.

(i) A group policy of insurance delivered or issued for delivery or renewed ~~which that~~ provides hospital, surgical or major medical expense insurance, or any combination of these coverages, on an expense incurred basis, shall provide that an employee or member or such employee's or member's covered dependents whose insurance under the group policy has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy or under any group policy providing similar benefits ~~which that~~ it replaces for at least three months immediately prior to termination, shall be entitled to have such coverage nonetheless continued under the group policy for a period of 18 months and have issued to the employee or member or such employee's or member's covered dependents by the insurer, at the end of such eighteen-month period of continuation, a policy of health insurance ~~which that~~ conforms to the applicable requirements specified in this subsection. This requirement shall not apply to a group policy which provides benefits for specific diseases or for accidental injuries only or a group policy issued to an employer subject to the continuation and conversion obligations set forth at title I, subtitle B, part 6 of the employee retirement income security act of 1974 or at title XXII of the public health service act, as each act was in effect on January 1, 1987, to the extent federal law provides the employee or member or such employee's or member's covered dependents with equal or greater continuation or conversion rights; or an employee or member or such employee's or member's covered dependents shall not be entitled to have such coverage continued or a converted policy issued to the employee or member or such employee's or member's covered dependents if termination of the insurance under the group policy occurred because:

(1) The employee or member or such employee's or member's covered dependents failed to pay any required contribution after receiving reasonable notice of such required contribution from the insurer in accordance with rules and regulations adopted by the commissioner of insurance; (2) any discontinued group coverage was replaced by similar group coverage within 31 days; (3) the employee or member is or could be covered by medicare (title XVIII of the United States social security act as added by the social security amendments of 1965 or as later amended or superseded); (4) the employee or member is or could be covered to the same extent by any other insured or lawful self-insured arrangement which provides expense incurred hospital, surgical or medical coverage and benefits for individuals in a group under which the person was not covered prior to such termination; or (5) coverage for the employee or member, or any covered dependent thereof, was terminated for cause as permitted by the group policy or certificate of coverage approved by the commissioner. In the event the group policy is terminated and not replaced the insurer may issue an individual policy or certificate in lieu of a conversion policy or the continuation of group coverage required herein if the individual policy or certificate provides substantially similar coverage for

the same or less premium as the group policy. In any event, the employee or member shall have the option to be issued a conversion policy ~~which that~~ meets the requirements set forth in this subsection in lieu of the right to continue group coverage.

(j) The continued coverage and the issuance of a converted policy shall be subject to the following conditions:

(1) Written application for the converted policy shall be made and the first premium paid to the insurer not later than 31 days after termination of coverage under the group policy or not later than 31 days after notice is received pursuant to paragraph (20) of this subsection.

(2) The converted policy shall be issued without evidence of insurability.

(3) The employer shall give the employee and such employee's covered dependents reasonable notice of the right to continuation of coverage. The terminated employee or member shall pay to the insurance carrier the premium for the eighteen-month continuation of coverage and such premium shall be the same as that applicable to members or employees remaining in the group. Failure to pay such premium shall terminate coverage under the group policy at the end of the period for which the premium has been paid. The premium rate charged for converted policies issued subsequent to the period of continued coverage shall be such that can be expected to produce an anticipated loss ratio of not less than 80% based upon conversion, morbidity and reasonable assumptions for expected trends in medical care costs. In the event the group policy is terminated and is not replaced, converted policies may be issued at self-sustaining rates that are not unreasonable in relation to the coverage provided based on conversion, morbidity and reasonable assumptions for expected trends in medical care costs. The frequency of premium payment shall be the frequency customarily required by the insurer for the policy form and plan selected, provided that the insurer shall not require premium payments less frequently than quarterly.

(4) The effective date of the converted policy shall be the day following the termination of insurance under the group policy.

(5) The converted policy shall cover the employee or member and the employee's or member's dependents who were covered by the group policy on the date of termination of insurance. At the option of the insurer, a separate converted policy may be issued to cover any dependent.

(6) The insurer shall not be required to issue a converted policy covering any person if such person is or could be covered by medicare (title XVIII of the United States social security act as added by the social security amendments of 1965 or as later amended or superseded). Furthermore, the insurer shall not be required to issue a converted policy covering any person if:

(A) (i) Such person is covered for similar benefits by another hospital, surgical, medical or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program, or

(ii) such person is eligible for similar benefits (whether or not covered therefor) under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis, or

(iii) similar benefits are provided for or available to such person, pursuant to or in accordance with the requirements of any state or federal law, and

(B) the benefits provided under the sources referred to in ~~clause~~ subparagraph (A)

(i) ~~above~~ for such person or benefits provided or available under the sources referred to in ~~clauses subparagraphs~~ (A)(ii) and ~~(A)(iii)~~ ~~above~~ for such person, together with the benefits provided by the converted policy, would result in over-insurance according to the insurer's standards. The insurer's standards must bear some reasonable relationship to actual health care costs in the area in which the insured lives at the time of conversion and must be filed with the commissioner of insurance prior to their use in denying coverage.

(7) A converted policy may include a provision whereby the insurer may request information in advance of any premium due date of such policy of any person covered as to whether:

(A) Such person is covered for similar benefits by another hospital, surgical, medical or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program;

(B) such person is covered for similar benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis; or

(C) similar benefits are provided for or available to such person, pursuant to or in accordance with the requirements of any state or federal law.

(8) The converted policy may provide that the insurer may refuse to renew the policy and the coverage of any person insured for the following reasons only:

(A) Either the benefits provided under the sources referred to in ~~clauses paragraph (6) (A)(i) and (A)(ii) of paragraph (6)~~ paragraph (6) (A)(i) and (A)(ii) of paragraph (6) for such person or benefits provided or available under the sources referred to in ~~clause (A)(iii) of paragraph (6) (A)(iii)~~ paragraph (6) (A)(iii) for such person, together with the benefits provided by the converted policy, would result in over-insurance according to the insurer's standards on file with the commissioner of insurance, or the converted policyholder fails to provide the requested information;

(B) fraud or material misrepresentation in applying for any benefits under the converted policy; or

(C) other reasons approved by the commissioner of insurance.

(9) An insurer shall not be required to issue a converted policy ~~which that~~ that provides coverage and benefits in excess of those provided under the group policy from which conversion is made.

(10) If the converted policy provides that any hospital, surgical or medical benefits payable may be reduced by the amount of any such benefits payable under the group policy after the termination of the individual's insurance or the converted policy includes provisions so that during the first policy year the benefits payable under the converted policy, together with the benefits payable under the group policy, shall not exceed those that would have been payable had the individual's insurance under the group policy remained in force and effect, the converted policy shall provide credit for deductibles, copayments and other conditions satisfied under the group policy.

(11) Subject to the provisions and conditions of this act, if the group insurance policy from which conversion is made insures the employee or member for major medical expense insurance, the employee or member shall be entitled to obtain a converted policy providing catastrophic or major medical coverage under a plan meeting the following requirements:

(A) A maximum benefit at least equal to either, at the option of the insurer, ~~paragraphs the amount described in clause~~ the amount described in clause (i) or (ii) ~~below~~.

(i) The smaller of the following amounts:

The maximum benefit provided under the group policy or a maximum payment of \$250,000 per covered person for all covered medical expenses incurred during the covered person's lifetime.

(ii) The smaller of the following amounts:

The maximum benefit provided under the group policy or a maximum payment of \$250,000 for each unrelated injury or sickness.

(B) Payment of benefits at the rate of 80% of covered medical expenses ~~which that~~ are in excess of the deductible, until 20% of such expenses in a benefit period reaches \$1,000, after which benefits will be paid at the rate of 100% during the remainder of such benefit period. Payment of benefits for outpatient treatment of mental illness, if provided in the converted policy, may be at a lesser rate but not less than 50%.

(C) A deductible for each benefit period which, at the option of the insurer, shall be: (i) The sum of the benefits deductible and \$100; or (ii) the corresponding deductible in the group policy. The term "benefits deductible," as used herein, means the value of any benefits provided on an expense incurred basis ~~which that~~ are provided with respect to covered medical expenses by any other hospital, surgical, or medical insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan, or any other plan or program whether on an insured or uninsured basis, or in accordance with the requirements of any state or federal law and, if pursuant to the conditions of paragraph (13), the converted policy provides both basic hospital or surgical coverage and major medical coverage, the value of such basic benefits.

If the maximum benefit is determined by ~~clause subparagraph (A)(ii) of this paragraph~~, the insurer may require that the deductible be satisfied during a period of not less than three months if the deductible is \$100 or less, and not less than six months if the deductible exceeds \$100.

(D) The benefit period shall be each calendar year when the maximum benefit is determined by ~~clause subparagraph (A)(i) of this paragraph~~ or 24 months when the maximum benefit is determined by ~~clause subparagraph (A)(ii) of this paragraph~~.

(E) The term "covered medical expenses," as used above, shall include at least, in the case of hospital room and board charges 80% of the average semiprivate room and board rate for the hospital in which the individual is confined and twice such amount for charges in an intensive care unit. Any surgical schedule shall be consistent with those customarily offered by the insurer under group or individual health insurance policies and must provide at least a \$1,200 maximum benefit.

(12) The conversion privilege required by this act shall, if the group insurance policy insures the employee or member for basic hospital or surgical expense insurance as well as major medical expense insurance, make available the plans of benefits set forth in paragraph (11). At the option of the insurer, such plans of benefits may be provided under one policy.

The insurer may also, in lieu of the plans of benefits set forth in paragraph (11), provide a policy of comprehensive medical expense benefits without first dollar coverage. The policy shall conform to the requirements of paragraph (11). An insurer electing to provide such a policy shall make available a low deductible option, not to exceed \$100, a high deductible option between \$500 and \$1,000, and a third deductible option midway between the high and low deductible options.



(13) The insurer, at its option, may also offer alternative plans for group health conversion in addition to those required by this act.

(14) In the event coverage would be continued under the group policy on an employee following the employee's retirement prior to the time the employee is or could be covered by medicare, the employee may elect, in lieu of such continuation of group insurance, to have the same conversion rights as would apply had such person's insurance terminated at retirement by reason of termination of employment or membership.

(15) The converted policy may provide for reduction of coverage on any person upon such person's eligibility for coverage under medicare (title XVIII of the United States social security act as added by the social security amendments of 1965 or as later amended or superseded) or under any other state or federal law providing for benefits similar to those provided by the converted policy.

(16) Subject to the conditions set forth above, the continuation and conversion privileges shall also be available:

(A) To the surviving spouse, if any, at the death of the employee or member, with respect to the spouse and such children whose coverage under the group policy terminates by reason of such death, otherwise to each surviving child whose coverage under the group policy terminates by reason of such death, or, if the group policy provides for continuation of dependents' coverage following the employee's or member's death, at the end of such continuation;

(B) to the spouse of the employee or member upon termination of coverage of the spouse, while the employee or member remains insured under the group policy, by reason of ceasing to be a qualified family member under the group policy, with respect to the spouse and such children whose coverage under the group policy terminates at the same time; or

(C) to a child solely with respect to such child upon termination of such coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided above with respect to such termination.

(17) The insurer may elect to provide group insurance coverage ~~which that~~ complies with this act in lieu of the issuance of a converted individual policy.

(18) A notification of the conversion privilege shall be included in each certificate of coverage.

(19) A converted policy ~~which that~~ is delivered outside this state must be on a form ~~which that~~ could be delivered in such other jurisdiction as a converted policy had the group policy been issued in that jurisdiction.

(20) The insurer shall give the employee or member and such employee's or member's covered dependents: (A) Reasonable notice of the right to convert at least once during the eighteen-month continuation period; or (B) for persons covered under 29 U.S.C. §§ 1161 et seq., notice of the right to a conversion policy required by this subsection (d) shall be given at least 30 days prior to the end of the continuation period provided by 29 U.S.C. §§ 1161 et seq. or from the date the employer ceases to provide any similar group health plan to any employee. Such notices shall be provided in accordance with rules and regulations adopted by the commissioner of insurance.

(k) (1) No policy issued by an insurer to which this section applies shall contain a provision ~~which that~~ excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be

available for the same accident or illness.

(2) Violation of this subsection shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

(l) The commissioner is hereby authorized to adopt such rules and regulations as may be necessary to carry out the provisions of this section.

Sec. 9. K.S.A. 40-2209b is hereby amended to read as follows: 40-2209b. (a) The provisions of K.S.A. 40-2209b through 40-2209j and 40-2209m through 40-2209o, and amendments thereto, shall be known and may be cited as the small employer health insurance availability act.

(b) The purpose and intent of this the small employer health insurance availability act are to promote the availability of health insurance coverage to small employers regardless of their health status or claims experience, to prevent abusive rating practices, to require disclosure of rating practices to purchasers, to establish rules regarding renewability of coverage, to establish limitations on the use of pre-existing condition exclusions, to provide for development of "basic" and "standard" health benefit plans to be offered to all small employers, to provide for establishment of a reinsurance program, and to improve the overall fairness and efficiency of the small group health insurance market.

Sec. 10. K.S.A. 2018 Supp. 40-2209d is hereby amended to read as follows: 40-2209d. As used in ~~this the small employer health insurance availability act:~~

(a) "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the commissioner that a small employer carrier is in compliance with the provisions of K.S.A. 40-2209h, and amendments thereto, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefit plans.

(b) "Approved service area" means a geographical area, as approved by the commissioner to transact insurance in this state, within which the carrier is authorized to provide coverage.

(c) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business, by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage.

(d) "Carrier" or "small employer carrier" means any insurance company, nonprofit medical and hospital service corporation, nonprofit optometric, dental, and pharmacy service corporations, municipal group-funded pool, fraternal benefit society or health maintenance organization, as these terms are defined ~~by in chapter 40 of the Kansas Statutes Annotated, and amendments thereto,~~ that offers health benefit plans covering eligible employees of one or more small employers in this state.

(e) "Case characteristics" means, with respect to a small employer, the geographic area in which the employees reside; the age and sex of the individual employees and their dependents; the appropriate industry classification as determined by the carrier, and the number of employees and dependents and such other objective criteria as may be approved family composition by the commissioner. "Case characteristics" shall not include claim experience, health status and duration of coverage since issue.

(f) "Class of business" means all or a separate grouping of small employers established pursuant to K.S.A. 40-2209g, and amendments thereto.

- (g) "Commissioner" means the commissioner of insurance.
- (h) "Department" means the insurance department.
- (i) "Dependent" means the spouse or child of an eligible employee, subject to applicable terms of the health benefits plan covering such employee and the dependent eligibility standards established by the board.
- (j) "Eligible employee" means an employee who works on a full-time basis, with a normal work week of 30 or more hours, and includes a sole proprietor, a partner of a partnership or an independent contractor, provided such sole proprietor, partner or independent contractor is included as an employee under a health benefit plan of a small employer but does not include an employee who works on a part-time, temporary or substitute basis.
- (k) "Financially impaired" means a member which, after the effective date of this act, is not insolvent but is:
- (1) Deemed by the commissioner to be in a hazardous financial condition pursuant to K.S.A. 40-222d, and amendments thereto; or
  - (2) placed under an order of rehabilitation or conservation by a court of competent jurisdiction.
- (l) "Health benefit plan" means any hospital or medical expense policy, health, hospital or medical service corporation contract, ~~and~~ a plan provided by a municipal group-funded pool, or ~~a~~ health maintenance organization contract offered by an employer or any certificate issued under any such policies, contracts or plans. "Health benefit plan" also includes a cafeteria plan authorized by 26 U.S.C. ~~section § 125~~ section § 125 ~~which that~~ offers the option of receiving health insurance coverage through a high deductible health plan and the establishment of a health savings account. In order for an eligible individual to obtain a high deductible health plan through the cafeteria plan, such individual shall present evidence to the employer that such individual has established a health savings account in compliance with 26 U.S.C. ~~section § 223~~, and any ~~amendments and regulations promulgated thereunder~~. "Health benefit plan" does not include policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.
- (m) "Health savings account" ~~shall have the same meaning ascribed to it~~ means the same as in subsection (d) of 26 U.S.C. section § 223(d).
- (n) "High deductible health plan" ~~shall mean~~ means a policy or contract of health insurance or health care plan that meets the criteria established in ~~subsection (e) of 26 U.S.C. section § 223(c)~~ and any regulations promulgated thereunder.
- (o) "Index rate" means, for each class of business as to a rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.
- (p) "Initial enrollment period" means the period of time specified in the health benefit plan during which an individual is first eligible to enroll in a small employer health benefit plan. Such period shall be no less favorable than a period beginning on the employee's or member's date of initial eligibility and ending 31 days thereafter.

(q) "Late enrollee" means an eligible employee or dependent who requests enrollment in a small employer's health benefit plan following the initial enrollment period provided under the terms of the first plan for which such employee or dependent was eligible through such small employer, however an eligible employee or dependent shall not be considered a late enrollee if:

(1) The individual:

(A) Was covered under another employer-provided health benefit plan or was covered under section 607(1) of the employee retirement income security act of 1974 (ERISA) at the time the individual was eligible to enroll;

(B) states in writing, at the time of the initial eligibility, that coverage under another employer health benefit plan was the reason for declining enrollment but only if the group policyholder or the accident and sickness issuer required such a written statement and provided the individual with notice of the requirement for a written statement and the consequences of such written statement;

(C) has lost coverage under another employer health benefit plan or under section 607(1) of the employee retirement income security act of 1974 (ERISA) as a result of the termination of employment, reduction in the number of hours of employment, termination of employer contributions toward such coverage, the termination of the other plan's coverage, death of a spouse, or divorce or legal separation; and

(D) requests enrollment within 63 days after the termination of coverage under another employer health benefit plan; or

(2) the individual is employed by an employer who offers multiple health benefit plans and the individual elects a different health benefit plan during an open enrollment period; or

(3) a court has ordered coverage to be provided for a spouse or minor child under a covered employee's plan.

(r) "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered, or which could have been charged or offered, by the small employer carrier to small employers with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(s) "Preexisting conditions exclusion" means a policy provision which excludes or limits coverage for charges or expenses incurred during a specified period not to exceed 90 days following the insured's effective date of enrollment as to a condition, whether physical or mental, regardless of the cause of the condition for which medical advice, diagnosis, care or treatment was recommended or received in the six months immediately preceding the effective date of enrollment.

(t) "Premium" means moneys paid by a small employer or eligible employees or both as a condition of receiving coverage from a small employer carrier, including any fees or other contributions associated with the health benefit plan.

(u) "Rating period" means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect but any period of less than one year shall be considered as a full year.

(v) "Waiting period" means a period of time after full-time employment begins before an employee is first eligible to enroll in any applicable health benefit plan offered by the small employer.

(w) "Small employer" means any person, firm, corporation, ~~or partnership or association~~ eligible for group sickness and accident insurance pursuant to ~~subsection (a)~~

of K.S.A. 40-2209, and amendments thereto, actively engaged in business whose total employed work force consisted of, on at least 50% of its working days during the preceding year, of at least two and no more than 50 eligible employees, the majority of whom were employed within the state. In determining the number of eligible employees, employees participating in an association health plan shall be counted in the aggregate at the association level. Also in determining the number of eligible employees companies ~~which that~~ are affiliated companies or ~~which that~~ are eligible to file a combined tax return for purposes of state taxation, shall be considered one employer. Except as otherwise specifically provided, ~~the provisions of this act which the small employer health insurance availability act~~ apply to a small employer ~~which that~~ has a health benefit plan shall continue to apply until the plan anniversary following the date the employer no longer meets the requirements of this definition.

(x) "Affiliate" or "affiliated" means an entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

(y) "Association health plan" or "AHP" means a coverage for the payment of expenses described in K.S.A. 40-2222, and amendments thereto, offered by a qualified trade, merchant, retail or professional association or business league that complies with the provisions of K.S.A. 40-2222a and 40-2222b, and amendments thereto.

(z) "Qualified trade, merchant, retail or professional association or business league" means any bona fide trade merchant, retail or professional association or business league that: (1) Has been in existence for at least five calendar years; (2) is comprised of five or more employers; and (3) is incorporated in this state, has a principal office located in this state, or has a principal office within a metropolitan area that has boundaries within this state.

Sec. 11. K.S.A. 40-2209e is hereby amended to read as follows: 40-2209e. (a) Any individual or group health benefit plan issued to a group authorized by ~~subsection (a) of~~ K.S.A. 40-2209(a), and amendments thereto, shall be subject to the provisions of this act if it provides health care benefits covering employees of a small employer and if it meets any one of the following conditions:

(1) Any portion of the premium is paid by a small employer, or any covered individual, whether through wage adjustments, reimbursement, withholding or otherwise;

(2) the health benefit plan is treated by the employer or any of the covered individuals as part of a plan or program for the purposes of section 106 or section 162 of the United States internal revenue code; or

(3) with the permission of the board, the carrier elects to renew or continue a health benefit plan covering employees of an employer who no longer meets the definition of a "small employer."

(b) ~~For purposes of this act an aggregation of two or more small employers covered under a trust arrangement or a policy issued to an association of small employers pursuant to K.S.A. 40-2209, and amendments thereto, shall permit employee or member units of more than two but less than 51 employees or members and their dependents to participate in any health benefit plan to which this act applies. Any group which includes employee or member units of 50 or fewer employees shall be subject to the provisions of this act notwithstanding its inclusion of employee or member units with more than 50 employees or members.~~

(e)—Except as expressly provided in this act, no health benefit plan offered to a small employer shall be subject to:

(1) Any law that would inhibit any carrier from contracting with providers or groups of providers with respect to health care services or benefits;

(2) any law that would impose any restriction on the ability to negotiate with providers regarding the level or method of reimbursing care or services provided under the health benefit plan.

(d)(c) Individual policies of accident and sickness insurance issued to individuals and their dependents totally independent of any group, association or trust arrangement permitted under K.S.A. 40-2209, and amendments thereto, shall not be subject to the provisions of this act.

Sec. 12. K.S.A. 2018 Supp. 40-2222 is hereby amended to read as follows: 40-2222. (a) Any person or other entity—~~which that~~ provides coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement, or otherwise, shall be presumed to be subject to the jurisdiction of the commissioner of insurance unless the person or other entity:

(1) Is a professional association of architects incorporated in Kansas on October 4, 1954, ~~which that~~ provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established November 1, 1986, and complies with K.S.A. 40-2222a, and amendments thereto;

(2) is a professional association of dentists incorporated in Kansas on July 3, 1972, ~~which that~~ provides coverage for the payment of expenses described herein to or for the members of the association or dependents through ~~a an established~~ trust ~~established~~ November 1, 1985, and complies with K.S.A. 40-2222a, and amendments thereto;

(3) (A) is a trade association of banks incorporated in Kansas on August 9, 1978, ~~which that~~ provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established July 1, 1989, and complies with K.S.A. 40-2222a, and amendments thereto; or

(B) is a trade organization of banks incorporated in Kansas on June 1, 1982, ~~which that~~ provides coverage for expenses described herein to or for members of the association or dependents, and complies with K.S.A. 40-2222a, and amendments thereto;

(4) is a trade association of truckers incorporated in Kansas on July 1, 1985, ~~which that~~ provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established January 1, 1990, and complies with K.S.A. 40-2222a, and amendments thereto;

(5) is an association of physicians practicing in the Kansas City metropolitan area, incorporated in Missouri on March 5, 1891, and qualified as a foreign corporation in Kansas on May 19, 1987, ~~which that~~ provides coverage for the payment of expenses described herein to or for the members of the association, their employees and dependents through a trust established November 1, 1984, and complies with K.S.A. 40-2222a, and amendments thereto;

(6) is organized as a farmers' cooperative under the Kansas cooperative marketing act, K.S.A. 17-1601 et seq., and amendments thereto, on January 13, 1983, and is an association of farmers' cooperatives and other like associations operated on a

cooperative basis and their affiliated companies, ~~which that~~ provides benefits for employees, and family members of such employees, of such associations, and complies with K.S.A. 40-2222a, and amendments thereto;

(7) is any other qualified trade, merchant, retail, or professional association or business league ~~incorporated in Kansas which that provides coverage for the payment of expenses described herein to or for the members of the association, their employees and dependents and that~~ complies with K.S.A. 40-2222a, and amendments thereto;

(8) conclusively shows by submission of an appropriate certificate, license, letter or other document issued by the United States department of labor that such person or entity is not subject to Kansas law; or

(9) conclusively shows that it is subject to the jurisdiction of an agency of this state or the federal government. For purposes of this act, tax exempt status under section 501(c) of the federal internal revenue code of 1986 shall not be deemed to be jurisdiction of the federal government.

(b) For the purposes of this section, a qualified trade, merchant, retail or professional association or business league ~~shall mean any bona fide trade, merchant, retail or professional association or business league that:~~

~~(1) Has been in existence for at least five calendar years; and~~

~~(2) is comprised of five or more employers means the same as in K.S.A. 40-2209d, and amendments thereto.~~

Sec. 13. On and after July 1, 2019, K.S.A. 2018 Supp. 40-2222, as amended by section 12 of this act, is hereby amended to read as follows: 40-2222. (a) Any person or other entity that provides coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement, or otherwise, shall be presumed to be subject to the jurisdiction of the commissioner of insurance unless the person or other entity:

(1) Is a professional association of architects incorporated in Kansas on October 4, 1954, that provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established November 1, 1986, and complies with K.S.A. 40-2222a, and amendments thereto;

(2) is a professional association of dentists incorporated in Kansas on July 3, 1972, that provides coverage for the payment of expenses described herein to or for the members of the association or dependents through an established trust and complies with K.S.A. 40-2222a, and amendments thereto;

(3) (A) is a trade association of banks incorporated in Kansas on August 9, 1978, that provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established July 1, 1989, and complies with K.S.A. 40-2222a, and amendments thereto; or

(B) is a trade organization of banks incorporated in Kansas on June 1, 1982, that provides coverage for expenses described herein to or for members of the association or dependents, and complies with K.S.A. 40-2222a, and amendments thereto;

(4) is a trade association of truckers incorporated in Kansas on July 1, 1985, that provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established January 1, 1990, and complies with K.S.A. 40-2222a, and amendments thereto;

(5) is an association of physicians practicing in the Kansas City metropolitan area,

incorporated in Missouri on March 5, 1891, and qualified as a foreign corporation in Kansas on May 19, 1987, that provides coverage for the payment of expenses described herein to or for the members of the association, their employees and dependents through a trust established November 1, 1984, and complies with K.S.A. 40-2222a, and amendments thereto;

(6) is organized as a farmers' cooperative under the Kansas cooperative marketing act, K.S.A. 17-1601 et seq., and amendments thereto, on January 13, 1983, and is an association of farmers' cooperatives and other like associations operated on a cooperative basis and their affiliated companies, that provides benefits for employees, and family members of such employees, of such associations, and complies with K.S.A. 40-2222a, and amendments thereto;

(7) is any other qualified trade, merchant, retail, or professional association or business league that provides coverage for the payment of expenses described herein to or for the members of the association, their employees and dependents and that complies with K.S.A. 40-2222a, and amendments thereto;

(8) conclusively shows by submission of an appropriate certificate, license, letter or other document issued by the United States department of labor that such person or entity is not subject to Kansas law; or

(9) conclusively shows that it is subject to the jurisdiction of an agency of this state or the federal government. For purposes of this act, tax exempt status under section 501(c) of the federal internal revenue code of 1986 shall not be deemed to be jurisdiction of the federal government.

(10) is a nonprofit agricultural membership organization incorporated in Kansas on June 23, 1931, or an affiliate thereof, that provides healthcare benefit coverage for the payment of expenses described herein to or for the members of the organization and their dependents. Notwithstanding any provision of law to the contrary, the healthcare benefit coverage described in this paragraph shall not be considered insurance. The risk under such coverage may be reinsured by a company authorized to conduct reinsurance in Kansas. Providers of healthcare benefit coverage shall file a signed, certified actuarial statement of plan reserves annually with the commissioner of insurance.

(b) For the purposes of this section, a qualified trade, merchant, retail or professional association or business league means the same as in K.S.A. 40-2209d, and amendments thereto.

Sec. 14. K.S.A. 2018 Supp. 40-2222a is hereby amended to read as follows: 40-2222a. At the time the initial application for coverage is taken with respect to new applicants and upon the first renewal, reinstatement or extension of coverage following the effective date of this act with respect to persons previously covered, each association described in ~~subsection (a)~~ of K.S.A. 40-2222, and amendments thereto, shall provide a written notice stating that:

- (a) The coverage is not provided by an insurance company;
- (b) the plan is not subject to the laws and regulations relating to insurance companies;
- (c) the plan is not under the jurisdiction of the commissioner of insurance; and
- (d) if the plan does not pay medical expenses that are eligible for payment under the plan for any reason, the individuals covered by the plan may be liable for such expenses.

Sec. 15. On and after July 1, 2019, K.S.A. 2018 Supp. 40-2222a, as amended by



section 14 of this act, is hereby amended to read as follows: 40-2222a. At the time the initial application for coverage is taken with respect to new applicants and upon the first renewal, reinstatement or extension of coverage following the effective date of this act with respect to persons previously covered, each ~~association~~ person or entity described in K.S.A. 40-2222, and amendments thereto, shall provide a written notice stating that:

- (a) The coverage is not provided by an insurance company;
- (b) the plan is not subject to the laws and regulations relating to insurance companies;
- (c) the plan is not under the jurisdiction of the commissioner of insurance; and
- (d) if the plan does not pay medical expenses that are eligible for payment under the plan for any reason, the individuals covered by the plan may be liable for such expenses.

Sec. 16. K.S.A. 2018 Supp. 40-2222b is hereby amended to read as follows: 40-2222b. (a) As a condition precedent to continuation of the exemption provided by K.S.A. 40-2222, and amendments thereto, each association described in ~~subsection (a) of~~ K.S.A. 40-2222, and amendments thereto, shall, no later than May 1 of each year, pay a tax at the rate of 1% per annum upon the annual Kansas gross premium collected during the preceding calendar year. For associations that have a principal office within a metropolitan area that has boundaries in Kansas and associations that have their principal office located within the borders of this state and offer policies to non-residents of Kansas, the tax owed under this section shall be based upon the gross premium collected during the preceding year relating to health benefit plans issued to members that have a principal place of business in Kansas. In the computation of the tax, such associations shall be entitled to deduct any annual Kansas gross premiums returned on account of cancellation or dividends returned to members or expenditures used for the purchase of reinsurance or stop-loss coverage.

(b) Every association subject to taxation under the provisions of this section shall pay the tax imposed and make a return under oath to the commissioner of insurance under such rules and regulations and in such form and manner as the commissioner may prescribe.

Sec. 17. On and after July 1, 2019, K.S.A. 2018 Supp. 40-2222b, as amended by section 16 of this act, is hereby amended to read as follows: 40-2222b. (a) As a condition precedent to continuation of the exemption provided by K.S.A. 40-2222, and amendments thereto, each ~~association~~ person or entity described in K.S.A. 40-2222, and amendments thereto, shall, no later than May 1 of each year, pay a tax at the rate of 1% per annum upon the annual Kansas gross premium collected during the preceding calendar year. ~~For associations~~ persons or entities that have a principal office within a metropolitan area that has boundaries in Kansas and associations that have their principal office located within the borders of this state and offer policies to non-residents of Kansas, the tax owed under this section shall be based upon the gross premium collected during the preceding year relating to health benefit plans issued to members that have a principal place of business in Kansas. In the computation of the tax, such ~~associations~~ persons or entities shall be entitled to deduct any annual Kansas gross premiums returned on account of cancellation or dividends returned to members or expenditures used for the purchase of reinsurance or stop-loss coverage.

(b) Every ~~association~~ person or entity subject to taxation under the provisions of this section shall pay the tax imposed and make a return under oath to the commissioner

of insurance under such rules and regulations and in such form and manner as the commissioner may prescribe.";

On page 3, by striking all in line 14; following line 14, by inserting:

"Sec. 19. K.S.A. 40-2209b and 40-2209e and K.S.A. 2018 Supp. 40-2209, 40-2209d, 40-2222, 40-2222a, 40-2222b and 75-4101 are hereby repealed.

Sec. 20. On and after July 1, 2019, K.S.A. 2018 Supp. 40-2222, as amended by section 12 of this act, 40-2222a, as amended by section 14 of this act, 40-2222b, as amended by section 16 of this act, 40-2404, 40-3812, 40-3813 and 40-3814 are hereby repealed.";

Also on page 3, in line 16, by striking "statute book" and inserting "Kansas register";  
And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2, by striking all before "K.S.A" and inserting "insurance; relating to life insurance unfair or deceptive acts or practices; third party administrator license and renewal application fees; purchase of cybersecurity insurance; association health plans; healthcare benefit coverage; establishing the unclaimed life insurance benefits act; amending K.S.A. 40-2209b and 40-2209e and"; in line 3, after "Supp." by inserting "40-2209, 40-2209d, 40-2222, 40-2222, as amended by section 12 of this act, 40-2222a, 40-2222a, as amended by section 14 of this act, 40-2222b, 40-2222b, as amended by section 16 of this act, 40-2404, 40-3812, 40-3813, 40-3814 and"; also in line 3, by striking "section" and inserting "sections";

And your committee on conference recommends the adoption of this report.

ROB OLSON

RICK BILLINGER

MARY WARE

*Conferees on part of Senate*

JENE VICKREY

TOM COX

CINDY NEIGHBOR

*Conferees on part of House*

Senator Olson moved the Senate adopt the Conference Committee Report on **HB 2209**.

On roll call, the vote was: Yeas 28; Nays 12; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bowers, Braun, Doll, Estes, Givens, Goddard, Hardy, Hilderbrand, Kerschen, Longbine, Lynn, Masterson, McGinn, Olson, Petersen, Pilcher-Cook, Pyle, Rucker, Skubal, Suellentrop, Taylor, Tyson, Wagle, Wilborn.

Nays: Bollier, Denning, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Miller, Pettey, Sykes, Ware.

The Conference Committee Report was adopted.

#### EXPLANATION OF VOTE

Mr. Vice President: Justice Roberts made it clear and he firmly reiterated the idea that our state governments have the duty to defend the powers they retained under the U.S.

Constitution, in his opinion in the first Obamacare Supreme Court challenge – *NFIB v. Sebelius* he wrote: “In the typical case we look to the States to defend their prerogatives by adopting ‘the simple expedient of not yielding’ to federal blandishments when they do not want to embrace the federal policies as their own.” Justice Roberts then added , “The States are separate and independent sovereigns. Sometimes they have to act like it.” Today in this Senate Chamber we acted like like it and have exercised our 10th Amendment rights, by passing **HB 2209**. For these reasons I am proud to have voted in favor of **HB 2209**.—RICHARD HILDERBRAND

Senator Lynn requests the record to show she concurs with the "Explanation of Vote" offered by Senator Hilderbrand on **HB 2209**

Mr. Vice President: The people of Kansas do need help getting affordable health care, but the conference committee report for **HB 2209** is not a good way to accomplish that. This is not insurance! Company representatives in their committee testimonies said, “This is not insurance”. The intention is for this coverage to be more affordable, but we have no numbers. We also have no details on what will or will not be covered. What does it matter that it’s not actual insurance? Oversight. State and federal regulation and oversight ensure that enrollees receive the protections promised them under contract, solvency is monitored, and fraudulent activity is investigated. The company would not be subject to the “external review” statute that requires the right to have a claim denial reviewed by a third party or to the “prompt payment” statute. Coverage. Although 30% of Kansans live with pre-existing conditions, this bill would allow the plan to cover only the healthiest Kansans, creating a very uneven playing field thereby destabilizing our insurance industry and leaving the real insurance companies with a less healthy pool. We all desperately want better, more affordable healthcare for Kansans, but again, this is most definitely not the way to do that.—MARY WARE

Senators Bollier, Francisco, Haley and Hensley request the record to show they concur with the "Explanation of Vote" offered by Senator Ware on **HB 2209**.

Mr. Vice President: I have additional concerns with the proposed changes for Association Health Plans included in the Conference Committee Report on **HB 2209**. These plans cannot guarantee lower rates for the members yet will likely increase costs for other insurance customers. More questions have been raised since a Federal District Court invalidated the U.S Department of Labor’s Health Plan Rule in March. Our Kansas Department of Insurance will likely receive questions about the fate of Association Health Plans formed under the new rule. It seems inappropriate to encourage the formation of new Association Health Plans and allow them to market themselves to new members before this is resolved.—MARCI FRANCISCO

### CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MADAM PRESIDENT: Your committee on conference on Senate amendments to **S Sub HB 2225** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed as Senate Substitute for House Bill No. 2225, as follows:

On page 3, in line 22, by striking "sixty" and inserting "two hundred"; in line 24, by striking "one" and inserting "two"; in line 28, by striking "fifty";

And your committee on conference recommends the adoption of this report.

MIKE PETERSEN

DAN GODDARD

PAT PETTEY

*Conferees on part of Senate*

RICHARD PROEHL

JACK THIMESCH

HENRY HELGERSON

*Conferees on part of House*

Senator Petersen moved the Senate adopt the Conference Committee Report on **S Sub HB 2225**.

On roll call, the vote was: Yeas 36; Nays 4; Present and Passing 0; Absent or Not Voting 0.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kerschen, Longbine, Lynn, Masterson, McGinn, Miller, Olson, Petersen, Pettey, Rucker, Skubal, Suellentrop, Sykes, Taylor, Wagle, Ware, Wilborn.

Nays: Hilderbrand, Pilcher-Cook, Pyle, Tyson.

The Conference Committee Report was adopted.

On motion of Senator Denning, the Senate recessed until 5:00 p.m.

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The Senate met pursuant to recess with Vice President Longbine in the chair.

#### **MESSAGE FROM THE HOUSE**

The House nonconcur in Senate amendments to **HB 2160**, requests a conference and has appointed Representatives Johnson, Mason and Gartner as conferees on the part of the House.

The House concurs in Senate amendments to **HB 2365**, and requests return of the bill.

The House adopts the Conference Committee report on **SB 15**.

The House adopts the Conference Committee report on **House Substitute for SB 16**.

The House adopts the Conference Committee report on **SB 20**.

The House announces the appointment of Landwehr, Eplee and Murnan to replace Representatives Vickrey, Cox and Neighbor as conferees on **SB 67**.

#### **CONFERENCE COMMITTEE REPORT**

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **H Sub SB 16** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee of the Whole amendments, as follows:

On page 1, following line 7, by inserting:

"Section 1.

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2020, the following:

State foundation aid (652-00-1000-0820).....\$92,659,017

*Provided*, That any unencumbered balance in the state foundation aid account in excess of \$100 as of June 30, 2019, is hereby reappropriated for fiscal year 2020.

KPERS – employer

contributions – non-USDs (652-00-1000-0100).....\$1,597,147

*Provided*, That any unencumbered balance in the KPERS – employer contributions – non-USDs account in excess of \$100 as of June 30, 2019, is hereby reappropriated for fiscal year 2020: *Provided further*, That all expenditures from the KPERS – employer contributions – non-USDs account shall be for payment of participating employers' contributions to the Kansas public employees retirement system as provided in K.S.A. 74-4939, and amendments thereto: *And provided further*, That expenditures from this account for the payment of participating employers' contributions to the Kansas public employees retirement system may be made regardless of when the liability was incurred.

KPERS – employer

contributions – USDs (652-00-1000-0110).....\$10,261,604

*Provided*, That any unencumbered balance in the KPERS – employer contributions – USDs account in excess of \$100 as of June 30, 2019, is hereby reappropriated for fiscal year 2020: *Provided further*, That all expenditures from the KPERS – employer contributions – USDs account shall be for payment of participating employers' contributions to the Kansas public employees retirement system as provided in K.S.A. 74-4939, and amendments thereto: *And provided further*, That expenditures from this account for the payment of participating employers' contributions to the Kansas public employees retirement system may be made regardless of when the liability was incurred.

Sec. 2.

DEPARTMENT OF EDUCATION

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2021, the following:

State foundation aid (652-00-1000-0820).....\$89,659,017

*Provided*, That any unencumbered balance in the state foundation aid account in excess of \$100 as of June 30, 2020, is hereby reappropriated for fiscal year 2021.

KPERS – employer

contributions – non-USDs (652-00-1000-0100).....\$3,306,581

*Provided*, That any unencumbered balance in the KPERS – employer contributions – non-USDs account in excess of \$100 as of June 30, 2020, is hereby reappropriated for fiscal year 2021: *Provided further*, That all expenditures from the KPERS – employer contributions – non-USDs account shall be for payment of participating employers' contributions to the Kansas public employees retirement system as provided in K.S.A.

74-4939, and amendments thereto: *And provided further*, That expenditures from this account for the payment of participating employers' contributions to the Kansas public employees retirement system may be made regardless of when the liability was incurred.

KPERS – employer  
 contributions – USDs (652-00-1000-0110).....\$21,247,425

*Provided*, That any unencumbered balance in the KPERS – employer contributions – USDs account in excess of \$100 as of June 30, 2020, is hereby reappropriated for fiscal year 2021: *Provided further*, That all expenditures from the KPERS – employer contributions – USDs account shall be for payment of participating employers' contributions to the Kansas public employees retirement system as provided in K.S.A. 74-4939, and amendments thereto: *And provided further*, That expenditures from this account for the payment of participating employers' contributions to the Kansas public employees retirement system may be made regardless of when the liability was incurred.";

Also on page 1, in line 29, by striking "6" and inserting "5"; by striking all in lines 30 through 36;

On page 2, by striking all in lines 1 through 17; by striking all in lines 28 through 43;

On page 3, by striking all in lines 1 through 36; in line 37, before "All" by inserting "(a)"; in line 38, by striking "1" and inserting "3"; in line 41, after "Reports." by inserting:

"(b) ";

Also on page 3, also in line 41, after "prepared" by inserting "pursuant to K.S.A. 72-1167 and 72-5171, and amendments thereto,";

On page 4, in line 2, by striking the period and inserting ", " and if a school operated by such school district has a separate website, then such reports shall be published for such school on such website with a link to such reports prominently displayed on the website homepage titled, "Accountability Reports.";

Also on page 4, following line 2, by inserting:

"(c) Each school district shall provide a link to the state department of education's webpage where the reports prepared pursuant to K.S.A. 72-5170, and amendments thereto, and section 3, and amendments thereto, for such school district and each school operated by such school district are published. The link shall be prominently displayed on the school district's accountability reports webpage.";

Also on page 4, by striking all in lines 3 through 16;

On page 7, in line 8, by striking "6" and inserting "5"; by striking all in lines 9 through 43;

By striking all on pages 8 and 9;

On page 10, by striking all in lines 1 through 7;

On page 13, in line 40, by striking "1 through"; also in line 40, after "3" by inserting "and 4";

On page 14, in line 31, by striking "\$4,302" and inserting "\$4,436"; in line 32, by striking "\$4,439" and inserting "\$4,569"; in line 33, by striking "\$4,576" and inserting "\$4,706"; in line 34, by striking "\$4,713" and inserting "\$4,846";

On page 20, following line 23, by inserting:

"(H) (i) Except as provided in clause (ii), a student enrolled in a school district who

is not a resident of Kansas shall be counted as follows:

- (a) For school year 2018-2019, one student;
- (b) for school years 2019-2020 and 2020-2021,  $\frac{3}{4}$  of a student; and
- (c) for school year 2021-2022 and each school year thereafter,  $\frac{1}{2}$  of a student.
- (ii) This subparagraph (H) shall not apply to:
  - (a) A student whose parent or legal guardian is an employee of the school district where such student is enrolled; or
  - (b) a student who attended public school in Kansas during school year 2016-2017 and who attended public school in Kansas during the immediately preceding school year.";

On page 21, by striking lines 1 through 12; following line 12, by inserting:

"Sec. 11. K.S.A. 72-5142 is hereby amended to read as follows: 72-5142. (a) The board of education of each school district shall levy an ad valorem tax upon the taxable tangible property of the school district in the school years specified in subsection (b) for the purpose of:

- (1) Financing that portion of the school district's general fund budget that is not financed from any other source provided by law;
- (2) paying a portion of the costs of operating and maintaining public schools in partial fulfillment of the constitutional obligation of the legislature to finance the educational interests of the state; and
- (3) with respect to any redevelopment school district established prior to July 1, 1997, pursuant to K.S.A. 12-1771, and amendments thereto, paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district.

(b) The tax required under subsection (a) shall be levied at a rate of 20 mills in the school years ~~2017-2018~~ 2019-2020 and ~~2018-2019~~ 2020-2021.

(c) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose described in subsection (a)(3), shall be remitted 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 school district finance fund.

(d) No school district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments thereto.

Sec. 12. K.S.A. 72-5153 is hereby amended to read as follows: 72-5153. (a) There is hereby established in every school district an at-risk education fund, which shall consist of all moneys deposited therein or transferred thereto according to law. The expenses of a school district directly attributable to providing at-risk student assistance or programs shall be paid from the at-risk education fund.

(b) Any balance remaining in the at-risk education fund at the end of the budget year shall be carried forward into the at-risk education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the at-risk education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in

any such fund shall be credited to that fund.

(c) Commencing in school year 2018-2019, expenditures from the at-risk education fund of a school district shall only be made for the following purposes:

(1) At-risk educational programs based on best practices identified pursuant to subsection (d);

(2) personnel providing educational services in conjunction with such programs; or

(3) services contracted for by the school district to provide at-risk educational programs based on best practices identified pursuant to subsection (d).

(d) ~~(1) On or before July 1, 2018,~~ The state board shall identify and approve evidence-based best practices for at-risk programs and instruction of students receiving at-risk program services. On and after July 1, 2019, such best practices shall include, but not be limited to, programs and services provided by state-based national nonprofit organizations that:

(A) Focus on students who are identified as students eligible to receive at-risk program services or who face other identifiable barriers to success;

(B) provide evidence-based instruction and support services to such students inside and outside the school setting; and

(C) evaluate outcomes data for students, including, but not limited to, school attendance, academic progress, graduation rates, pursuit of postsecondary education or career advancement.

(2) The state board shall review and update such best practices as necessary and as part of its five-year accreditation system review process.

(e) Each year the board of education of each school district shall prepare and submit to the state board a report on the assistance or programs provided by the school district for students identified as ~~at-risk eligible to receive at-risk program services.~~ Such report shall include the number of students identified as ~~at-risk eligible to receive at-risk program services~~ who were served or provided assistance, the type of service provided, the research upon which the school district relied in determining that a need for service or assistance existed, the results of providing such service or assistance and any other information required by the state board.

(f) In order to achieve uniform reporting of the number of students provided service or assistance by school districts in at-risk student programs, school districts shall report the number of students served or assisted in the manner required by the state board.

(g) As used in this section, the term "evidence-based instruction" means an education delivery system based on peer-reviewed research that consistently produces better student outcomes over a five-year period than would otherwise be achieved by the same students who are receiving at-risk program services."

Also on page 21, in line 40, by striking "6" and inserting "5";

On page 22, in line 4, by striking "6" and inserting "5";

On page 25, in line 1, by striking all after "(d)"; by striking all in lines 2 through 4; in line 5, by striking "(e)"; in line 6, by striking "6" and inserting "5";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 25, in line 31, by striking "2022" and inserting "2021"; in line 33, by striking "2022" and inserting "2021";

On page 27, in line 36, after "graduates" by inserting ", boys and girls club";

On page 28, by striking all in lines 21 through 43;



By striking all on page 29;

On page 30, by striking all in lines 1 and 2;

On page 34, by striking all in lines 6 through 43;

By striking all on pages 35 and 36;

On page 37, by striking all in lines 1 through 34;

On page 40, following line 1, by inserting:

"Sec. 19. K.S.A. 2018 Supp. 79-201x is hereby amended to read as follows: 79-201x. For taxable years ~~2017~~ 2019 and ~~2018~~ 2020, the following described property, to the extent herein specified, shall be and is hereby exempt from the property tax levied pursuant to the provisions of K.S.A. 72-5142, and amendments thereto: Property used for residential purposes to the extent of \$20,000 of its appraised valuation.";

Also on page 40, in line 2, by striking ", 72-3422"; in line 3, by striking "72-5150" and inserting "72-5142, 72-5153"; also in line 3, by striking ", 72-5461"; by striking the last comma; in line 4, by striking all before "and"; also in line 4, after "72-8193" by inserting "and K.S.A. 2018 Supp. 79-201x";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon, by inserting "making and concerning appropriations for the fiscal years ending June 30, 2020, and June 30, 2021, for the department of education;"; also in line 2, by striking ", 72-3422"; in line 3, by striking "72-5150" and inserting "72-5142, 72-5153"; also in line 3, by striking all after "72-5193"; in line 4, by striking "5461"; also in line 4, by striking ", 72-6147, 72-6487"; also in line 4, after "72-8193" by inserting "and K.S.A. 2018 Supp. 79-201x";

And your committee on conference recommends the adoption of this report.

KRISTEY WILLIAMS

KYLE HOFFMAN

VALDENIA WINN

*Conferees on part of House*

MOLLY BAUMGARDNER

JIM DENNING

ANTHONY HENSLEY

*Conferees on part of Senate*

Senator Baumgardner moved the Senate adopt the Conference Committee Report on **H Sub SB 16**.

On roll call, the vote was: Yeas 31; Nays 8; Present and Passing 0; Absent or Not Voting 1.

Yeas: Baumgardner, Berger, Billinger, Bollier, Bowers, Braun, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kerschen, Longbine, Lynn, McGinn, Miller, Olson, Petersen, Pettey, Skubal, Sykes, Taylor, Wagle, Ware.

Nays: Alley, Hilderbrand, Masterson, Pilcher-Cook, Pyle, Rucker, Suellentrop, Tyson.

Absent or Not Voting: Wilborn.

The Conference Committee Report was adopted.

## EXPLANATION OF VOTE

Mr. Vice President: I vote "AYE" on **House Substitute for SB 16**. In its *Gannon VI* order on June 25, 2018, the Kansas Supreme Court ruled, "The State has not met the adequacy requirement in Article 6 of the Kansas Constitution." The court gave the 2019 Legislature the opportunity to appropriate additional money for inflation while keeping our \$522 million, five-year commitment to K-12 education we made last session. This bill represents a bipartisan, good-faith effort by the 2019 Legislature to comply with the *Gannon* adequacy requirement. After years of litigation under *Gannon*, which began in 2011, the people want us to act responsibly to adequately and fairly fund quality schools for every child in our state, regardless of their special needs, their family's income, or where they live. The school children of Kansas cannot wait another day, another month, or another school year, to receive the suitable education they deserve. I vote for this bill because my most important duty is to ensure that every Kansas child is given the best education possible. Our children's success for tomorrow depends on the effectiveness of their schools today.—ANTHONY HENSLEY

Senators Faust-Goudeau, Holland, Pettey and Ware request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **H Sub SB 16**.

Mr. Vice President, I vote "AYE" on **H Sub SB 16**. I voted no when it originally passed the Senate and while I still have concerns regarding the endless cycle of school finance litigation in Kansas, SB 16 provides a much-needed policy fix with the inclusion of the Tax Credit for Low Income Students Scholarship Program. As a former special education teacher, I am confident early intervention for at-risk children has better outcomes than intervention at a later age. This policy fix provides critical funding to elementary age students who are just beginning their educational journey and therefore I vote "AYE."—SUSAN WAGLE

## ORIGINAL MOTION

On motion of Senator Tyson, the Senate acceded to the request of the House for a conference on **HB 2160**.

The Vice President appointed Senators Tyson, Kerschen and Holland as conferees on the part of the Senate.

## REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 206** be amended by adoption of the amendments recommended by the Senate Committee on Federal and State Affairs as reported in the Journal of the Senate on March 21, 2019, and the bill, as printed with amendments by Senate Committee, be further amended:

On page 1, by striking all in lines 17 through 36;

On page 2, by striking all in lines 1 through 16; in line 36, by striking "and K.S.A. 2018 Supp. 31-157 are" and inserting "is";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "to"; in line 2, by striking "powers;"; in line 3, by striking all after the first "and"; in line 4, by striking "sections" and inserting "section"; and the bill be passed as amended.

Also, Committee on **Federal and State Affairs** 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:

*Executive Director, Kansas Racing and Gaming Commission: K.S.A. 74-8805*

Donald Brownlee, serves at the pleasure of the Governor

Committee on **Ways and Means** recommends **SB 190** be amended on page 1, in line 22, by striking "2030" and inserting "2025"; in line 23, by striking "2031" and inserting "2026";

On page 2, in line 3, by striking all after "(d)"; by striking all in lines 4 through 14; in line 15, by striking all before the period and inserting "During fiscal years 2020 through 2025, any county may submit to the secretary of transportation a plan for expansion or modernization of a road or improvement of a bridge in a city or cities in such county or such county or counties. Such plan shall include a local match from other moneys of the participating cities or counties equal to or greater than 20% of the total cost of the plan. If the secretary approves such plan, the city or county shall receive such city's or county's share of the local ad valorem tax reduction fund during the fiscal years of the life of the construction phase of the expansion, modernization or improvement project, as determined by the secretary. On June 15 of fiscal years 2020 through 2025, the secretary shall certify to the director of accounts and reports the aggregate amount of moneys approved by the secretary from such plans. Upon receipt of such amount, the director of accounts and reports shall transfer such amount from the state general fund to the local ad valorem tax reduction fund to be distributed to the participating city or county. The secretary shall transmit a copy of each such certification to the director of the budget and the director of legislative research. Cities within a county and adjacent counties may enter into an agreement with the county to implement an expansion, modernization or improvement project. Moneys distributed pursuant to this subsection shall only be used for the expansion, modernization or improvement project. Nothing in this subsection shall authorize a participating city or county to receive any share of the local ad valorem tax reduction fund: (1) That would be attributed to another local unit of government other than the cities or counties; (2) in excess of the total cost of the expansion, modernization or improvement project; or (3) if the proposed expansion, modernization or improvement project is included in the 2020 transportation planning program";

Also on page 2, in line 29, by striking "2030" and inserting "2025"; in line 34, by striking all after the "(b)"; by striking all in lines 35 through 43;

On page 3, by striking all in lines 1 through 3; in line 4, by striking "research" and inserting "During fiscal years 2020 through 2025, any county may submit to the secretary of transportation a plan for expansion or modernization of a road or improvement of a bridge in a city or cities in such county or such county or counties. Such plan shall include a local match from other moneys of the participating cities or counties equal to or greater than 20% of the total cost of the plan. If the secretary approves such plan, the city or county shall receive such city's or county's share of the county and city revenue sharing fund during the fiscal years of the life of the construction phase of the expansion, modernization or improvement project, as determined by the secretary. On June 15 of fiscal years 2020 through 2025, the secretary shall certify to the director of accounts and reports the aggregate amount of moneys approved by the secretary from such plans. Upon receipt of such amount, the

director of accounts and reports shall transfer such amount from the state general fund to the county and city revenue sharing fund to be distributed to the participating city or county. The secretary shall transmit a copy of each such certification to the director of the budget and the director of legislative research. Cities within a county and adjacent counties may enter into an agreement with the county to implement an expansion, modernization or improvement project. Moneys distributed pursuant to this subsection shall only be used for the expansion, modernization or improvement project. Nothing in this subsection shall authorize a participating city or county to receive any share of the county and city revenue sharing fund: (1) That would be attributed to another local unit of government other than the cities or counties; (2) in excess of the total cost of the expansion, modernization or improvement project; or (3) if the proposed expansion, modernization or improvement project is included in the 2020 transportation planning program";

On page 1, in the title, in line 1, by striking "new road construction" and inserting "expansion or modernization of roads"; and the bill be passed as amended.

On motion of Senator Denning, the Senate adjourned until 10:00 a.m., Friday, April 5, 2019.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

