

# Journal of the House

FORTY-FIFTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Thursday, March 19, 2015, 11:00 a.m.

The House met pursuant to adjournment with Speaker Merrick in the chair.

The roll was called with 120 members present.

Rep. Huebert was excused on verified illness.

Rep. Victors was excused on legislative business.

Reps. Frownfelter and Schwartz were excused on excused absence by the Speaker.

Prayer by guest chaplain, Trevor Jacobs, Evangelist, Jesus Saves Ministries, Ft. Scott, and guest of Rep. Read:

Dear Lord God, Creator of Heaven and Earth

We thank You for giving us this beautiful day. We thank You for friends and family that You have blessed us with. We thank You that You are Holy and Pure in all Your ways God, Your Word is Truth and knowing Your Truth will set us free.

God help us in this great time of need for our nation, for our state and for our families.

God direct our hearts, not for what we want but for others and for Your glory. God remind us that You have placed us here not to be served but to serve.

We ask for Your wisdom to make God honoring decisions for those we serve. We ask for the strength and boldness to do what is right in Your eyes. Teach us Lord to be humble as You have called us to be. Show us how to bless those around us with Your Divine love and mercy.

Lord help us to be compassionate to those who are in need, to be a voice for the voiceless, to be strong and defend the weak. God give us the courage to follow through with the commitments we have made to You.

In Jesus' Holy Name, Amen.

The Pledge of Allegiance was led by Rep. Phillips.

## INTRODUCTION OF GUESTS

There being no objection, the following remarks of Rep. Winn are spread upon the Journal:

Today I have the distinct honor and privilege of welcoming members of the Kansas chapter of Delta Sigma Theta Sorority as they participate in Delta Day at the Capitol.

The Day is sponsored by the African American Commission and the individual sponsors include Ms. Trudy Baker, Wichita, Ms. Daphne Maxwell – the KAACC from District 1 and Ms. Donna Douglas.

Delta Sigma Theta Sorority was founded in January 1913 by 22 collegiate women at Howard University. These pioneering female students wanted to use their collective strength to promote academic excellence and to provide assistance to persons in need.

The first public act performed by the Delta Founders involved their participation in the Women's Suffrage march in Washington D.C. in March 1913. Delta Sigma Theta was then incorporated in 1930. Since it's founding more than 200,000 women have joined its organization. The sorority now has over 1000 collegiate and alumni chapters located in the United States, England, Japan, Germany, Virgin Island, Bermuda, Bahamas, Jamaica and the Rep. of Korea. Needless to say, today, Delta Sigma Theta Sorority is the largest African American Greek lettered sorority in the world.

Today they commit their energies to community service, leadership, educating the youth, promoting physical and mental health, political awareness and involvement and strengthening the African American family.

In many ways they are Like the Big Red 1 – they are soldiers in the fight for justice all over the world.

Please join me in a sincere welcome to the Kansas members of the Delta Sigma Theta Sorority.

## CHANGE OF REFERENCE

Speaker Merrick announced the withdrawal of **SB 117** from Committee on Insurance and referral to Committee on Taxation.

## MESSAGES FROM THE SENATE

The Senate nonconcur in House amendments to **SB 113**, requests a conference and has appointed Senators **King**, **Smith** and **Haley** as conferees on the part of the Senate.

## INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Vickrey, the House acceded to the request of the Senate for a conference on **SB 113**.

Speaker Merrick thereupon appointed Reps. Barker, Macheers and Carmichael as conferees on the part of the House.

## CONSENT CALENDAR

No objection was made to **SB 43**, **SB 47** appearing on the Consent Calendar for the second day.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**HB 2089**, AN ACT concerning alcoholic beverages; relating to licensure; relating to undisclosed beneficial interests in a license; amending K.S.A. 2014 Supp. 41-311 and 41-2623 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 119; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Barton, Becker, Billinger, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carmichael, B. Carpenter, W. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Curtis, DeGraaf, Dierks, Doll, Dove, Edmonds, Esau, Estes, Ewy, Finch, Finney, Francis, Gallagher, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Hemsley, Henderson, Henry, Hibbard, Highberger, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Hutchins, Hutton, Jennings, Johnson, D. Jones, K. Jones, Kahrs, Kelley, Kelly, Kiegerl, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Merrick, Moxley, O'Brien, Osterman, Ousley, Patton, Pauls, Peck, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rubin, Ruiz, Ryckman, Ryckman Sr., Sawyer, Scapa, Schroeder, Schwab, Seiwert, Sloan, Smith, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Ward, Waymaster, Whipple, Whitmer, Williams, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Davis, Frownfelter, Huebert, Schwartz, Victors.

The bill passed.

**HB 2125**, AN ACT concerning alcoholic beverages; relating to regulation of licensees; amending K.S.A. 41-321, 41-2609 and 41-2633a and K.S.A. 2014 Supp. 41-319, 41-320, 41-326, 41-328, 41-719 and 41-2611 and repealing the existing sections; also repealing K.S.A. 41-314, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Barton, Becker, Billinger, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carmichael, B. Carpenter, W. Carpenter, Claeys, Clark, Clayton, Concannon, Corbet, Curtis, Davis, DeGraaf, Dierks, Doll, Dove, Edmonds, Esau, Estes, Ewy, Finch, Finney, Francis, Gallagher, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Hemsley, Henderson, Henry, Hibbard, Highberger, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Hutchins, Hutton, Jennings, Johnson, D. Jones, K. Jones, Kahrs, Kelley, Kelly, Kiegerl, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Merrick, Moxley, O'Brien, Osterman, Ousley, Patton, Pauls, Peck, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rubin, Ruiz, Ryckman, Ryckman Sr., Sawyer, Scapa, Schroeder, Schwab, Seiwert, Sloan, Smith, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Ward, Waymaster, Whipple, Whitmer, Williams, Wilson, Winn, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Frownfelter, Huebert, Schwartz, Victors.

The bill passed, as amended.

**HB 2191**, AN ACT concerning alcoholic beverages; relating to provision of samples by distributor licensees; amending K.S.A. 41-709 and K.S.A. 2014 Supp. 41-306, 41-306a and 41-307 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 111; Nays 9; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Barton, Becker, Billinger, Boldra, Bollier, Bradford, Bridges, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carmichael, B. Carpenter, W. Carpenter, Claeyes, Clark, Clayton, Concannon, Corbet, Curtis, Davis, DeGraaf, Dierks, Doll, Dove, Estes, Ewy, Finch, Finney, Francis, Gallagher, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Hemsley, Henderson, Henry, Hibbard, Highberger, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Houston, Hutchins, Hutton, Jennings, Johnson, D. Jones, K. Jones, Kelley, Kelly, Kiegerl, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Merrick, Moxley, Osterman, Ousley, Patton, Pauls, Phillips, Powell, Proehl, Read, Rhoades, Rooker, Rubin, Ruiz, Ryckman, Sawyer, Schwab, Seiwert, Sloan, Smith, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Ward, Waymaster, Whipple, Williams, Wilson, Winn, Wolfe Moore.

Nays: Edmonds, Esau, Kahrs, O'Brien, Peck, Ryckman Sr., Scapa, Schroeder, Whitmer.

Present but not voting: None.

Absent or not voting: Frownfelter, Huebert, Schwartz, Victors.

The bill passed.

**HB 2223**, AN ACT concerning the dispensing of alcoholic liquor, was considered on final action.

On roll call, the vote was: Yeas 99; Nays 21; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Becker, Billinger, Boldra, Bollier, Bradford, Bridges, Bruchman, Burroughs, Couture-Lovelady, Campbell, Carlin, Carmichael, Claeyes, Clark, Clayton, Concannon, Corbet, Curtis, Davis, DeGraaf, Dierks, Doll, Esau, Estes, Ewy, Finch, Finney, Francis, Gallagher, Garber, Goico, Gonzalez, Grosserode, Hawkins, Hedke, Hemsley, Henderson, Henry, Hibbard, Highberger, Highland, Hildabrand, Hill, Hineman, Houser, Houston, Hutchins, Hutton, Jennings, Johnson, D. Jones, Kelly, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, Mason, McPherson, Merrick, Moxley, Osterman, Ousley, Patton, Pauls, Phillips, Proehl, Rhoades, Rooker, Rubin, Ruiz, Ryckman, Sawyer, Schwab, Seiwert, Sloan, Smith, Suellentrop, Sutton, Swanson, Thompson, Tietze, Todd, Trimmer, Vickrey, Ward, Waymaster, Whipple, Whitmer, Williams, Wilson, Winn, Wolfe Moore.

Nays: Barton, Brunk, B. Carpenter, W. Carpenter, Dove, Edmonds, Hoffman, K. Jones, Kahrs, Kelley, Kiegerl, Macheers, Mast, O'Brien, Peck, Powell, Read, Ryckman Sr., Scapa, Schroeder, Thimesch.

Present but not voting: None.

Absent or not voting: Frownfelter, Huebert, Schwartz, Victors.

The bill passed, as amended.

**HB 2331**, AN ACT concerning alcoholic beverages; permitting consumption at catered events and by patrons on certain unlicensed premises; amending K.S.A. 41-

2643 and K.S.A. 2014 Supp. 41-104 and 41-719 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 90; Nays 30; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Becker, Billinger, Boldra, Bradford, Bridges, Bruchman, Burroughs, Couture-Lovelady, Campbell, Carlin, Carmichael, Claeys, Clark, Clayton, Concannon, Corbet, Curtis, Davis, Dierks, Doll, Esau, Estes, Ewy, Finch, Finney, Francis, Gallagher, Garber, Goico, Grosserode, Hawkins, Hemsley, Henderson, Henry, Highland, Hildabrand, Hill, Hineman, Hoffman, Houser, Hutchins, Hutton, Jennings, Johnson, D. Jones, Kelly, Kleeb, Kuether, Lane, Lunn, Lusk, Lusker, McPherson, Merrick, Moxley, Osterman, Patton, Phillips, Powell, Proehl, Rhoades, Rooker, Rubin, Ryckman, Sawyer, Schwab, Seiwert, Sloan, Smith, Suellentrop, Sutton, Swanson, Thompson, Tietze, Todd, Trimmer, Vickrey, Ward, Waymaster, Whipple, Whitmer, Williams, Wilson, Winn, Wolfe Moore.

Nays: Barton, Bollier, Brunk, B. Carpenter, W. Carpenter, DeGraaf, Dove, Edmonds, Gonzalez, Hedke, Hibbard, Highberger, Houston, K. Jones, Kahrs, Kelley, Kiegerl, Macheers, Mason, Mast, O'Brien, Ousley, Pauls, Peck, Read, Ruiz, Ryckman Sr., Scapa, Schroeder, Thimesch.

Present but not voting: None.

Absent or not voting: Frownfelter, Huebert, Schwartz, Victors.

The bill passed, as amended.

On motion of Rep. Vickrey, the House resolved into the Committee of the Whole, with Rep. Highland in the chair.

### COMMITTEE OF THE WHOLE

On motion of Rep. Highland, Committee of the Whole report, as follows, was adopted:

Recommended that **HB 2387, SB 21** be passed.

Committee report to **Sub SB 38** be adopted; and the bill be passed as amended.

Committee report to **SB 109** be adopted; and the bill be passed as amended.

Committee report to **SB 228** be adopted; and the bill be passed as amended.

### REPORTS OF STANDING COMMITTEES

Committee on **Agriculture and Natural Resources** recommends **SB 36** be amended by substituting a new bill to be designated as "House Substitute for SENATE BILL NO. 36," as follows:

"House Substitute for SENATE BILL NO. 36

By Committee on Agriculture and Natural Resources

"AN ACT concerning the department of health and environment; creating the local conservation lending program."; and the substitute bill be passed.

(**H Sub for SB 36** was thereupon introduced and read by title.)

Committee on **Agriculture and Natural Resources** recommends **SB 156** be amended on page 1, following line 5, by inserting:

"New Section 1. (a) Any water right owner or a group of water right owners in a designated area may enter into a consent agreement and order with the chief engineer to establish a water conservation area. The water right owner or group of water right

owners shall submit a management plan to the chief engineer. Such management plan shall be the basis of the consent agreement and order designating a water conservation area and shall:

- (1) Include clear geographic boundaries;
- (2) include the written consent of all participating water right owners within the geographic boundaries described in paragraph (1) to enter into the consent agreement and order;
- (3) include a finding or findings that one or more of the circumstances specified in K.S.A. 82a-1036(a) through (d), and amendments thereto, exist;
- (4) include provisions regarding the proposed duration of the water conservation area and any process by which water right owners may request to be added or removed from the water conservation area;
- (5) include goals and corrective control provisions to address one or more of the circumstances specified in K.S.A. 82a-1036(a) through (d), and amendments thereto;
- (6) give due consideration to water users who have previously implemented reductions in water use resulting in voluntary conservation measures;
- (7) include compliance monitoring and enforcement; and
- (8) be consistent with state law.

(b) A consent agreement and order of designation of a water conservation area pursuant to this section shall define the boundaries of the water conservation area and may include any of the following corrective control provisions:

- (1) Closing the water conservation area to any further appropriation of groundwater. In which event, the chief engineer shall thereafter refuse to accept any application for a permit to appropriate groundwater located within such area;
- (2) determining the permissible total withdrawal of groundwater in the water conservation area each day, month or year, and apportioning such permissible total withdrawal among the valid groundwater right holders in such area in accordance with the relative dates of priority of such rights;
- (3) reducing the permissible withdrawal of groundwater by any one or more appropriators thereof, or by wells in the water conservation area;
- (4) requiring and specifying a system of rotation of groundwater use in the water conservation area; and
- (5) any other provisions necessary to effectuate agreed-upon water conservation goals consistent with the public interest.

The chief engineer shall be responsible for the monitoring and enforcement of any corrective control provisions ordered for a water conservation area.

(c) The order of designation shall be in full force and effect from the date of its entry in the records of the chief engineer's office. The chief engineer upon request shall deliver a copy of such order to any interested person who is affected by such order and shall file a copy of the same with the register of deeds of any county within which any part of the water conservation area lies.

(d) If any corrective control provisions of a water conservation area conflict with rules and regulations of a groundwater management district or requirements of a local enhanced management plan or intensive groundwater use control area that result in greater overall conservation of water resources within which a participating water right is situated, the chief engineer is authorized to amend the provisions of the water conservation area to conform to any rules and regulations or requirements that result in

greater conservation of water resources, as determined by the chief engineer. As part of the consent agreement and order of designation, the chief engineer may authorize single-year or multi-year term permits for water right owners to effectuate the water conservation area's conservation goals in accordance with the management plan.

(e) Prior to execution of a proposed water conservation area consent agreement and order of designation pursuant to this section, the chief engineer shall notify in writing the groundwater management district within which any participating water right is situated. Such groundwater management district shall be given an opportunity to provide a written recommendation regarding the proposed water conservation area and management plan within 45 days of notification by the chief engineer. The review period may be extended by up to 30 days upon approval by the chief engineer. Subject to subsection (d), any participating water right in a water conservation area shall continue to be subject to all applicable rules and regulations and management plans of the groundwater management district in which the water right is situated.

(f) The consent agreement and order of designation shall provide for periodic review of the consent agreement and order, which may be initiated by the chief engineer or upon request of the water right owners in the water conservation area. The consent agreement and order shall specify the frequency of such periodic review, but a review shall be conducted at least once every 10 years.

(g) (1) The chief engineer may, with the consent of all participating water right owners, amend a consent agreement and order of designation in order to:

- (A) Modify corrective control provisions or the boundaries of the designated area;
- (B) add or remove water rights upon request of such water right owners;
- (C) terminate a water conservation area upon the request of the water right owners in the designated area; or
- (D) make other changes the water right owners may request.

(2) Any amendments to a consent agreement and order of designation, except amendments that remove a water right upon request of the owner so long as the consent of all participating water right owners is not required pursuant to the management plan, shall be consented to by all participating water right owners within the designated area and the chief engineer and shall be based upon a revised management plan submitted by the participating water right owners.

(h) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section.

(i) The provisions of this section shall be part of and supplemental to the Kansas water appropriation act.

Sec. 2. K.S.A. 2014 Supp. 2-2903 is hereby amended to read as follows: 2-2903.

(a) Every package or container of agricultural liming materials sold, offered or exposed for sale in this state shall have affixed to each package in a conspicuous manner on the outside thereof, a plainly printed, stamped or otherwise marked label, tag or statement setting forth the following information: (1) The name and principal office address of the manufacturer or distributor;

- (2) the brand or trade name of the material;
- (3) the identification of the product as to type of agricultural liming material;
- (4) the net weight of the agricultural liming material;
- (5) the calcium carbonate equivalent as determined by methods ~~prescribed by the association of official analytical chemists~~; and in such minimum amounts as prescribed

by rules and regulations of the secretary of agriculture; and

(6) the minimum percentage by weight passing through U.S. standard sieves, as prescribed by rules and regulations;

(7) the minimum percentage of weight of effective calcium carbonate equivalent (ECC), a function of calcium carbonate equivalent and fineness as prescribed by rules and regulations of the secretary of agriculture.

(b) In any case where a bulk sale of agricultural liming materials is made, the delivery slip identifying such sale shall contain the information required by subsection (a)(7).

(c) No information or statement shall appear on any package, label, delivery slip or advertising material which is false or misleading to the purchaser as to the quality, analysis, type or composition of the agricultural liming material.

(d) In the case of any material which has been adulterated subsequent to packaging, labeling or loading thereof but before delivery to the consumer, a plainly marked notice to that effect shall be affixed by the vendor to the package or delivery slip to identify the kind and degree of adulteration therein.

(e) At every site from which agricultural liming materials are delivered in bulk or orders for bulk deliveries are placed by consumers, there shall be conspicuously posted a statement setting forth the information required by subsection (a) of this section for each brand of material.

Sec. 3. K.S.A. 2-2907 is hereby amended to read as follows: 2-2907. (a) It shall be the duty of the secretary or ~~his or her~~ the secretary's duly authorized agent to sample, inspect, make analyses of and test agricultural liming materials distributed within this state as often as the secretary may deem necessary to determine whether such agricultural liming materials are in compliance with the provisions of this act. The secretary or ~~his or her~~ the secretary's agent may enter upon any public or private premises or carriers during regular business hours in order to have access to agricultural liming material subject to the provisions of this act, and to any records relating to their distribution.

(b) The methods of analysis and sampling shall be those approved by the secretary; ~~and shall be guided by association of official analytical chemists procedures.~~;

On page 2, in line 8, before "K.S.A." by inserting "K.S.A. 2-2907 and"; also in line 8, after "Supp." by inserting "2-2903 and"; also in line 8, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "water; relating to"; also in line 1, after "concerning" by inserting "the department of agriculture; relating to water conservation areas; agricultural liming materials;"; in line 2, before "K.S.A." by inserting "K.S.A. 2-2907 and"; also in line 2, after "Supp." by inserting "2-2903 and"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Appropriations** recommends **HB 2370** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL NO. 2370," as follows:

"Substitute for HOUSE BILL NO. 2370

By Committee on Appropriations

"AN ACT making and concerning appropriations for fiscal years ending June 30, 2015, June 30, 2016, June 30, 2017, June 30, 2018, and June 30, 2019, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain



restrictions and limitations, and directing or authorizing certain receipts, disbursements, procedures and acts incidental to the foregoing; amending K.S.A. 2014 Supp. 2-223, 12-5256, 55-193, 68-2320, 74-50,107, 74-8963, 74-99b34, 75-6702, 76-775, 76-783, 76-7,107, 79-2959, 79-2964, 79-3425i, 79-34,156, 79-34,171, 79-4804 and 82a-953a and repealing the existing sections; also repealing K.S.A. 2014 Supp. 74-99b34a."; and the substitute bill be passed.

(Sub HB 2370 was thereupon introduced and read by title.)

Committee on **Commerce, Labor and Economic Development** recommends **HB 2391** be amended on page 5, by striking all in lines 4 through 43;

On page 6, by striking all in lines 1 through 21;

And by renumbering sections accordingly;

Also on page 6, in line 22, by striking "K.S.A. 75-5549 and"; also in line 22, by striking all after "75-2935"; in line 23, by striking "are" and inserting "is";

On page 1, in the title, in line 2, by striking all after the first semicolon; in line 3, by striking "K.S.A. 75-5549 and"; also in line 3, by striking all after "75-2935"; also in line 4, by striking "5541"; also in line 4, by striking "sections" and inserting "section"; and the bill be passed as amended.

Committee on **Commerce, Labor and Economic Development** recommends **SB 154** be amended on page 1, in line 31, after the period by inserting "(1) For initial claims effective prior to July 1, 2015, the maximum weekly benefit amount shall be determined as follows:";

On page 2, in line 15, by striking "(d)"; by striking all in lines 26 through 43;

On page 3, by striking all in lines 1 through 4 and inserting:

"(2) For initial claims effective on or after July 1, 2015, the maximum weekly benefit amount shall be determined as follows: On July 1 of each year, the secretary shall determine the maximum weekly benefit amount by computing 55% of the average weekly wages paid to employees in insured work during the previous calendar year, but not to be less than \$474, and shall, prior to that date, announce the maximum weekly benefit amount so determined by publication in the Kansas register. Such computation shall be made by dividing the gross wages reported as paid for insured work during the previous calendar year by the product of the average of mid-month employment during such calendar year multiplied by 52. The maximum weekly benefit amount so determined and announced for the 12-month period shall apply only to those claims filed in that period qualifying for maximum payment under the foregoing formula. All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a change in the maximum benefit amount for a subsequent 12-month period. If the computed maximum weekly benefit amount is not a multiple of \$1, then the computed maximum weekly benefit amount shall be reduced to the next lower multiple of \$1.";

Also on page 3, in line 30, by striking "(e)" and inserting "(f)"; in line 32, by striking "(e)" and inserting "(f)"; in line 43, by striking "(e)" and inserting "(f)";

On page 4, in line 2, by striking "(e)" and inserting "(f)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 25, in line 22, by striking "(j)" and inserting "(g)";

On page 26, following line 4, by inserting:

"Sec. 4. K.S.A. 2014 Supp. 44-706 is hereby amended to read as follows: 44-706. The secretary shall examine whether an individual has separated from employment for each week claimed. The secretary shall apply the provisions of this section to the individual's most recent employment prior to the week claimed. An individual shall be disqualified for benefits:

(a) If the individual left work voluntarily without good cause attributable to the work or the employer, subject to the other provisions of this subsection. For purposes of this subsection, "good cause" is cause of such gravity that would impel a reasonable, not supersensitive, individual exercising ordinary common sense to leave employment. Good cause requires a showing of good faith of the individual leaving work, including the presence of a genuine desire to work. Failure to return to work after expiration of approved personal or medical leave, or both, shall be considered a voluntary resignation. After a temporary job assignment, failure of an individual to affirmatively request an additional assignment on the next succeeding workday, if required by the employment agreement, after completion of a given work assignment, shall constitute leaving work voluntarily. The disqualification shall begin the day following the separation and shall continue until after the individual has become reemployed and has had earnings from insured work of at least three times the individual's weekly benefit amount. An individual shall not be disqualified under this subsection if:

(1) The individual was forced to leave work because of illness or injury upon the advice of a licensed and practicing health care provider and, upon learning of the necessity for absence, immediately notified the employer thereof, or the employer consented to the absence, and after recovery from the illness or injury, when recovery was certified by a practicing health care provider, the individual returned to the employer and offered to perform services and the individual's regular work or comparable and suitable work was not available. As used in this paragraph "health care provider" means any person licensed by the proper licensing authority of any state to engage in the practice of medicine and surgery, osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

(2) the individual left temporary work to return to the regular employer;

(3) the individual left work to enlist in the armed forces of the United States, but was rejected or delayed from entry;

(4) the spouse of an individual who is a member of the armed forces of the United States who left work because of the voluntary or involuntary transfer of the individual's spouse from one job to another job, which is for the same employer or for a different employer, at a geographic location which makes it unreasonable for the individual to continue work at the individual's job. For the purposes of this provision the term "armed forces" means active duty in the army, navy, marine corps, air force, coast guard or any branch of the military reserves of the United States;

(5) the individual left work because of hazardous working conditions; in determining whether or not working conditions are hazardous for an individual, the degree of risk involved to the individual's health, safety and morals, the individual's physical fitness and prior training and the working conditions of workers engaged in the same or similar work for the same and other employers in the locality shall be considered; as used in this paragraph, "hazardous working conditions" means working conditions that could result in a danger to the physical or mental well-being of the individual; each determination as to whether hazardous working conditions exist shall

include, but shall not be limited to, a consideration of: (A) The safety measures used or the lack thereof; and (B) the condition of equipment or lack of proper equipment; no work shall be considered hazardous if the working conditions surrounding the individual's work are the same or substantially the same as the working conditions generally prevailing among individuals performing the same or similar work for other employers engaged in the same or similar type of activity;

(6) the individual left work to enter training approved under section 236(a)(1) of the federal trade act of 1974, provided the work left is not of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the federal trade act of 1974, and wages for such work are not less than 80% of the individual's average weekly wage as determined for the purposes of the federal trade act of 1974;

(7) the individual left work because of unwelcome harassment of the individual by the employer or another employee of which the employing unit had knowledge and that would impel the average worker to give up such worker's employment;

(8) the individual left work to accept better work; each determination as to whether or not the work accepted is better work shall include, but shall not be limited to, consideration of: (A) The rate of pay, the hours of work and the probable permanency of the work left as compared to the work accepted; (B) the cost to the individual of getting to the work left in comparison to the cost of getting to the work accepted; and (C) the distance from the individual's place of residence to the work accepted in comparison to the distance from the individual's residence to the work left;

(9) the individual left work as a result of being instructed or requested by the employer, a supervisor or a fellow employee to perform a service or commit an act in the scope of official job duties which is in violation of an ordinance or statute;

(10) the individual left work because of a substantial violation of the work agreement by the employing unit and, before the individual left, the individual had exhausted all remedies provided in such agreement for the settlement of disputes before terminating. For the purposes of this paragraph, a demotion based on performance does not constitute a violation of the work agreement;

(11) after making reasonable efforts to preserve the work, the individual left work due to a personal emergency of such nature and compelling urgency that it would be contrary to good conscience to impose a disqualification; or

(12) (A) the individual left work due to circumstances resulting from domestic violence, including:

(i) The individual's reasonable fear of future domestic violence at or en route to or from the individual's place of employment;

(ii) the individual's need to relocate to another geographic area in order to avoid future domestic violence;

(iii) the individual's need to address the physical, psychological and legal impacts of domestic violence;

(iv) the individual's need to leave employment as a condition of receiving services or shelter from an agency which provides support services or shelter to victims of domestic violence; or

(v) the individual's reasonable belief that termination of employment is necessary to avoid other situations which may cause domestic violence and to provide for the future safety of the individual or the individual's family.

(B) An individual may prove the existence of domestic violence by providing one of the following:

(i) A restraining order or other documentation of equitable relief by a court of competent jurisdiction;

(ii) a police record documenting the abuse;

(iii) documentation that the abuser has been convicted of one or more of the offenses enumerated in articles 34 and 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2014 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, where the victim was a family or household member;

(iv) medical documentation of the abuse;

(v) a statement provided by a counselor, social worker, health care provider, clergy, shelter worker, legal advocate, domestic violence or sexual assault advocate or other professional who has assisted the individual in dealing with the effects of abuse on the individual or the individual's family; or

(vi) a sworn statement from the individual attesting to the abuse.

(C) No evidence of domestic violence experienced by an individual, including the individual's statement and corroborating evidence, shall be disclosed by the department of labor unless consent for disclosure is given by the individual.

(b) If the individual has been discharged or suspended for misconduct connected with the individual's work. The disqualification shall begin the day following the separation and shall continue until after the individual becomes reemployed and in cases where the disqualification is due to discharge for misconduct has had earnings from insured work of at least three times the individual's determined weekly benefit amount, except that if an individual is discharged for gross misconduct connected with the individual's work, such individual shall be disqualified for benefits until such individual again becomes employed and has had earnings from insured work of at least eight times such individual's determined weekly benefit amount. In addition, all wage credits attributable to the employment from which the individual was discharged for gross misconduct connected with the individual's work shall be canceled. No such cancellation of wage credits shall affect prior payments made as a result of a prior separation.

(1) For the purposes of this subsection, "misconduct" is defined as a violation of a duty or obligation reasonably owed the employer as a condition of employment including, but not limited to, a violation of a company rule, including a safety rule, if: (A) The individual knew or should have known about the rule; (B) the rule was lawful and reasonably related to the job; and (C) the rule was fairly and consistently enforced.

(2) (A) Failure of the employee to notify the employer of an absence and an individual's leaving work prior to the end of such individual's assigned work period without permission shall be considered prima facie evidence of a violation of a duty or obligation reasonably owed the employer as a condition of employment.

(B) For the purposes of this subsection, misconduct shall include, but not be limited to, violation of the employer's reasonable attendance expectations if the facts show:

(i) The individual was absent or tardy without good cause;

(ii) the individual had knowledge of the employer's attendance expectation; and

(iii) the employer gave notice to the individual that future absence or tardiness may or will result in discharge.

(C) For the purposes of this subsection, if an employee disputes being absent or tardy without good cause, the employee shall present evidence that a majority of the employee's absences or tardiness were for good cause. If the employee alleges that the employee's repeated absences or tardiness were the result of health related issues, such evidence shall include documentation from a licensed and practicing health care provider as defined in subsection (a)(1).

(3) (A) The term "gross misconduct" as used in this subsection shall be construed to mean conduct evincing extreme, willful or wanton misconduct as defined by this subsection. Gross misconduct shall include, but not be limited to: (i) Theft; (ii) fraud; (iii) intentional damage to property; (iv) intentional infliction of personal injury; or (v) any conduct that constitutes a felony.

(B) For the purposes of this subsection, the following shall be conclusive evidence of gross misconduct:

(i) The use of alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance by an individual while working;

(ii) the impairment caused by alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance by an individual while working;

(iii) a positive breath alcohol test or a positive chemical test, provided:

(a) The test was either:

(1) Required by law and was administered pursuant to the drug free workplace act, 41 U.S.C. § 701 et seq.;

(2) administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment;

(3) requested pursuant to a written policy of the employer of which the employee had knowledge and was a required condition of employment;

(4) required by law and the test constituted a required condition of employment for the individual's job; or

(5) there was reasonable suspicion to believe that the individual used, had possession of, or was impaired by alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance while working;

(b) the test sample was collected either:

(1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et seq.;

(2) as prescribed by an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment;

(3) as prescribed by the written policy of the employer of which the employee had knowledge and which constituted a required condition of employment;

(4) as prescribed by a test which was required by law and which constituted a required condition of employment for the individual's job; or

(5) at a time contemporaneous with the events establishing probable cause;

(c) the collecting and labeling of a chemical test sample was performed by a licensed health care professional or any other individual certified pursuant to paragraph (b)(3)(A)(iii)(f) or authorized to collect or label test samples by federal or state law, or a federal or state rule or regulation having the force or effect of law, including law enforcement personnel;

(d) the chemical test was performed by a laboratory approved by the United States

department of health and human services or licensed by the department of health and environment, except that a blood sample may be tested for alcohol content by a laboratory commonly used for that purpose by state law enforcement agencies;

(e) the chemical test was confirmed by gas chromatography, gas chromatography-mass spectroscopy or other comparably reliable analytical method, except that no such confirmation is required for a blood alcohol sample or a breath alcohol test;

(f) the breath alcohol test was administered by an individual trained to perform breath tests, the breath testing instrument used was certified and operated strictly according to a description provided by the manufacturers and the reliability of the instrument performance was assured by testing with alcohol standards; and

(g) the foundation evidence establishes, beyond a reasonable doubt, that the test results were from the sample taken from the individual;

(iv) an individual's refusal to submit to a chemical test or breath alcohol test, provided:

(a) The test meets the standards of the drug free workplace act, 41 U.S.C. § 701 et seq.;

(b) the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment;

(c) the test was otherwise required by law and the test constituted a required condition of employment for the individual's job;

(d) the test was requested pursuant to a written policy of the employer of which the employee had knowledge and was a required condition of employment; or

(e) there was reasonable suspicion to believe that the individual used, possessed or was impaired by alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance while working;

(v) an individual's dilution or other tampering of a chemical test.

(C) For purposes of this subsection:

(i) "Alcohol concentration" means the number of grams of alcohol per 210 liters of breath;

(ii) "alcoholic liquor" shall be defined as provided in K.S.A. 41-102, and amendments thereto;

(iii) "cereal malt beverage" shall be defined as provided in K.S.A. 41-2701, and amendments thereto;

(iv) "chemical test" shall include, but is not limited to, tests of urine, blood or saliva;

(v) "controlled substance" shall be defined as provided in K.S.A. 2014 Supp. 21-5701, and amendments thereto;

(vi) "required by law" means required by a federal or state law, a federal or state rule or regulation having the force and effect of law, a county resolution or municipal ordinance, or a policy relating to public safety adopted in an open meeting by the governing body of any special district or other local governmental entity;

(vii) "positive breath test" shall mean a test result showing an alcohol concentration of 0.04 or greater, or the levels listed in 49 C.F.R. part 40, if applicable, unless the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment, in which case "positive chemical test" shall mean a

test result showing an alcohol concentration at or above the levels provided for in the assistance or treatment program;

(viii) "positive chemical test" shall mean a chemical result showing a concentration at or above the levels listed in K.S.A. 44-501, and amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or abuse listed therein, unless the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment, in which case "positive chemical test" shall mean a chemical result showing a concentration at or above the levels provided for in the assistance or treatment program.

(4) An individual shall not be disqualified under this subsection if the individual is discharged under the following circumstances:

(A) The employer discharged the individual after learning the individual was seeking other work or when the individual gave notice of future intent to quit, except that the individual shall be disqualified after the time at which such individual intended to quit and any individual who commits misconduct after such individual gives notice to such individual's intent to quit shall be disqualified;

(B) the individual was making a good-faith effort to do the assigned work but was discharged due to: (i) Inefficiency; (ii) unsatisfactory performance due to inability, incapacity or lack of training or experience; (iii) isolated instances of ordinary negligence or inadvertence; (iv) good-faith errors in judgment or discretion; or (v) unsatisfactory work or conduct due to circumstances beyond the individual's control; or

(C) the individual's refusal to perform work in excess of the contract of hire.

(c) If the individual has failed, without good cause, to either apply for suitable work when so directed by the employment office of the secretary of labor, or to accept suitable work when offered to the individual by the employment office, the secretary of labor, or an employer, such disqualification shall begin with the week in which such failure occurred and shall continue until the individual becomes reemployed and has had earnings from insured work of at least three times such individual's determined weekly benefit amount. In determining whether or not any work is suitable for an individual, the secretary of labor, or a person or persons designated by the secretary, shall consider the degree of risk involved to health, safety and morals, physical fitness and prior training, experience and prior earnings, length of unemployment and prospects for securing local work in the individual's customary occupation or work for which the individual is reasonably fitted by training or experience, and the distance of the available work from the individual's residence. Notwithstanding any other provisions of this act, an otherwise eligible individual shall not be disqualified for refusing an offer of suitable employment, or failing to apply for suitable employment when notified by an employment office, or for leaving the individual's most recent work accepted during approved training, including training approved under section 236(a)(1) of the trade act of 1974, if the acceptance of or applying for suitable employment or continuing such work would require the individual to terminate approved training and no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (1) If the position offered is vacant due directly to a strike, lockout or other labor dispute; (2) if the remuneration, hours or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in

the locality; (3) if as a condition of being employed, the individual would be required to join or to resign from or refrain from joining any labor organization; and (4) if the individual left employment as a result of domestic violence, and the position offered does not reasonably accommodate the individual's physical, psychological, safety, or legal needs relating to such domestic violence.

(d) For any week with respect to which the secretary of labor, or a person or persons designated by the secretary, finds that the individual's unemployment is due to a stoppage of work which exists because of a labor dispute or there would have been a work stoppage had normal operations not been maintained with other personnel previously and currently employed by the same employer at the factory, establishment or other premises at which the individual is or was last employed, except that this subsection (d) shall not apply if it is shown to the satisfaction of the secretary of labor, or a person or persons designated by the secretary, that: (1) The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and (2) the individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs any of whom are participating in or financing or directly interested in the dispute. If in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection be deemed to be a separate factory, establishment or other premises. For the purposes of this subsection, failure or refusal to cross a picket line or refusal for any reason during the continuance of such labor dispute to accept the individual's available and customary work at the factory, establishment or other premises where the individual is or was last employed shall be considered as participation and interest in the labor dispute.

(e) For any week with respect to which or a part of which the individual has received or is seeking unemployment benefits under the unemployment compensation law of any other state or of the United States, except that if the appropriate agency of such other state or the United States finally determines that the individual is not entitled to such unemployment benefits, this disqualification shall not apply.

(f) For any week with respect to which the individual is entitled to receive any unemployment allowance or compensation granted by the United States under an act of congress to ex-service men and women in recognition of former service with the military or naval services of the United States.

(g) For the period of five years beginning with the first day following the last week of unemployment for which the individual received benefits, or for five years from the date the act was committed, whichever is the later, if the individual, or another in such individual's behalf with the knowledge of the individual, has knowingly made a false statement or representation, or has knowingly failed to disclose a material fact to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor. In addition to the penalties set forth in K.S.A. 44-719, and amendments thereto, an individual who has knowingly made a false statement or representation or who has knowingly failed to disclose a material fact to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor shall be liable for a penalty in the amount equal to 25% of the amount of benefits unlawfully received. Notwithstanding any other



provision of law, such penalty shall be deposited into the employment security trust fund.

(h) For any week with respect to which the individual is receiving compensation for temporary total disability or permanent total disability under the workmen's compensation law of any state or under a similar law of the United States.

(i) For any week of unemployment on the basis of service in an instructional, research or principal administrative capacity for an educational institution as defined in ~~subsection (v) of K.S.A. 44-703(v)~~, and amendments thereto, if such week begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms during such period or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs such services in the first of such academic years or terms and there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms.

(j) For any week of unemployment on the basis of service in any capacity other than service in an instructional, research, or administrative capacity in an educational institution, as defined in ~~subsection (v) of K.S.A. 44-703(v)~~, and amendments thereto, if such week begins during the period between two successive academic years or terms if the individual performs such services in the first of such academic years or terms and there is a reasonable assurance that the individual will perform such services in the second of such academic years or terms, except that if benefits are denied to the individual under this subsection and the individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subsection.

(k) For any week of unemployment on the basis of service in any capacity for an educational institution as defined in ~~subsection (v) of K.S.A. 44-703(v)~~, and amendments thereto, if such week begins during an established and customary vacation period or holiday recess, if the individual performs services in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(l) For any week of unemployment on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, if such week begins during the period between two successive sport seasons or similar period if such individual performed services in the first of such seasons or similar periods and there is a reasonable assurance that such individual will perform such services in the later of such seasons or similar periods.

(m) For any week on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the federal immigration and nationality act. Any data or information required of individuals

applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of such individual's alien status shall be made except upon a preponderance of the evidence.

(n) For any week in which an individual is receiving a governmental or other pension, retirement or retired pay, annuity or other similar periodic payment under a plan maintained by a base period employer and to which the entire contributions were provided by such employer, except that: (1) If the entire contributions to such plan were provided by the base period employer but such individual's weekly benefit amount exceeds such governmental or other pension, retirement or retired pay, annuity or other similar periodic payment attributable to such week, the weekly benefit amount payable to the individual shall be reduced, but not below zero, by an amount equal to the amount of such pension, retirement or retired pay, annuity or other similar periodic payment which is attributable to such week; or (2) if only a portion of contributions to such plan were provided by the base period employer, the weekly benefit amount payable to such individual for such week shall be reduced, but not below zero, by the prorated weekly amount of the pension, retirement or retired pay, annuity or other similar periodic payment after deduction of that portion of the pension, retirement or retired pay, annuity or other similar periodic payment that is directly attributable to the percentage of the contributions made to the plan by such individual; or (3) if the entire contributions to the plan were provided by such individual, or by the individual and an employer, or any person or organization, who is not a base period employer, no reduction in the weekly benefit amount payable to the individual for such week shall be made under this subsection; or (4) whatever portion of contributions to such plan were provided by the base period employer, if the services performed for the employer by such individual during the base period, or remuneration received for the services, did not affect the individual's eligibility for, or increased the amount of, such pension, retirement or retired pay, annuity or other similar periodic payment, no reduction in the weekly benefit amount payable to the individual for such week shall be made under this subsection. No reduction shall be made for payments made under the social security act or railroad retirement act of 1974.

(o) For any week of unemployment on the basis of services performed in any capacity and under any of the circumstances described in subsection (i), (j) or (k) which an individual performed in an educational institution while in the employ of an educational service agency. For the purposes of this subsection, the term "educational service agency" means a governmental agency or entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(p) For any week of unemployment on the basis of service as a school bus or other motor vehicle driver employed by a private contractor to transport pupils, students and school personnel to or from school-related functions or activities for an educational institution, as defined in ~~subsection (v)~~ of K.S.A. 44-703(v), and amendments thereto, if such week begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, if the individual has a contract or contracts, or a reasonable assurance thereof, to perform services in any such capacity with a private contractor for any educational institution for both such

academic years or both such terms. An individual shall not be disqualified for benefits as provided in this subsection for any week of unemployment on the basis of service as a bus or other motor vehicle driver employed by a private contractor to transport persons to or from nonschool-related functions or activities.

(q) For any week of unemployment on the basis of services performed by the individual in any capacity and under any of the circumstances described in subsection (i), (j), (k) or (o) which are provided to or on behalf of an educational institution, as defined in ~~subsection (v) of~~ K.S.A. 44-703(v), and amendments thereto, while the individual is in the employ of an employer which is a governmental entity, Indian tribe or any employer described in section 501(c)(3) of the federal internal revenue code of 1986 which is exempt from income under section 501(a) of the code.

(r) For any week in which an individual is registered at and attending an established school, training facility or other educational institution, or is on vacation during or between two successive academic years or terms. An individual shall not be disqualified for benefits as provided in this subsection provided:

(1) The individual was engaged in full-time employment concurrent with the individual's school attendance;

(2) the individual is attending approved training as defined in ~~subsection (s) of~~ K.S.A. 44-703(s), and amendments thereto; or

(3) the individual is attending evening, weekend or limited day time classes, which would not affect availability for work, and is otherwise eligible under ~~subsection (e) of~~ K.S.A. 44-705(c), and amendments thereto.

(s) For any week with respect to which an individual is receiving or has received remuneration in the form of a back pay award or settlement. The remuneration shall be allocated to the week or weeks in the manner as specified in the award or agreement, or in the absence of such specificity in the award or agreement, such remuneration shall be allocated to the week or weeks in which such remuneration, in the judgment of the secretary, would have been paid.

(1) For any such weeks that an individual receives remuneration in the form of a back pay award or settlement, an overpayment will be established in the amount of unemployment benefits paid and shall be collected from the claimant.

(2) If an employer chooses to withhold from a back pay award or settlement, amounts paid to a claimant while they claimed unemployment benefits, such employer shall pay the department the amount withheld. With respect to such amount, the secretary shall have available all of the collection remedies authorized or provided in K.S.A. 44-717, and amendments thereto.

(t) (1) Any applicant for or recipient of unemployment benefits who tests positive for unlawful use of a controlled substance or controlled substance analog shall be required to complete a substance abuse treatment program approved by the secretary of labor, secretary of commerce or secretary for children and families, and a job skills program approved by the secretary of labor, secretary of commerce or the secretary for children and families. Subject to applicable federal laws, any applicant for or recipient of unemployment benefits who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required under this subsection shall be ineligible to receive unemployment benefits until completion of such substance abuse treatment and job skills programs. Upon completion of both substance abuse treatment and job skills programs, such applicant for or recipient of

unemployment benefits may be subject to periodic drug screening, as determined by the secretary of labor. Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, an applicant for or recipient of unemployment benefits shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from unemployment benefits for a period of 12 months, or until such applicant for or recipient of unemployment benefits completes both substance abuse treatment and job skills programs, whichever is later. Upon a third positive test for unlawful use of a controlled substance or controlled substance analog, an applicant for or a recipient of unemployment benefits shall be terminated from receiving unemployment benefits, subject to applicable federal law.

(2) Any individual who has been discharged or refused employment for failing a preemployment drug screen required by an employer may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any such individual who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening.

(u) If the individual was found not to have a disqualifying adjudication or conviction under K.S.A. 39-970 or 65-5117, and amendments thereto, was hired and then was subsequently convicted of a disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and amendments thereto. The disqualification shall begin the day following the separation and shall continue until after the individual becomes reemployed and has had earnings from insured work of at least three times the individual's determined weekly benefit amount.

(v) Notwithstanding the provisions of any subsection, an individual shall not be disqualified for such week of part-time employment in a substitute capacity for an educational institution if such individual's most recent employment prior to the individual's benefit year begin date was for a non-educational institution and such individual demonstrates application for work in such individual's customary occupation or for work for which the individual is reasonably fitted by training or experience.

Sec. 5. K.S.A. 2014 Supp. 44-709 is hereby amended to read as follows: 44-709.

(a) *Filing.* Claims for benefits shall be made in accordance with rules and regulations adopted by the secretary. The secretary shall furnish a copy of such rules and regulations to any individual requesting them. Each employer shall post and maintain printed statements furnished by the secretary without cost to the employer in places readily accessible to individuals in the service of the employer.

(b) *Determination.* (1) Except as otherwise provided in this paragraph, a representative designated by the secretary, and hereinafter referred to as an examiner, shall promptly examine the claim and, on the basis of the facts found by the examiner, shall determine whether or not the claim is valid. If the examiner determines that the claim is valid, the examiner shall determine the first day of the benefit year, the weekly benefit amount and the total amount of benefits payable with respect to the benefit year. If the claim is determined to be valid, the examiner shall send a notice to the last employing unit who shall respond within 10 days by providing the examiner all requested information including all information required for a decision under K.S.A. 44-706, and amendments thereto. The information may be submitted by the employing unit in person at an employment office of the secretary or by mail, by telefacsimile machine or by electronic mail. If the required information is not submitted or

postmarked within a response time limit of 10 days after the examiner's notice was sent, the employing unit shall be deemed to have waived its standing as a party to the proceedings arising from the claim and shall be barred from protesting any subsequent decisions about the claim by the secretary, a referee, the employment security board of review or any court, except that the employing unit's response time limit may be waived or extended by the examiner or upon appeal, if timely response was impossible due to excusable neglect. In any case in which the payment or denial of benefits will be determined by the provisions of ~~subsection (d)~~ of K.S.A. 44-706(d), and amendments thereto, the examiner shall promptly transmit the claim to a special examiner designated by the secretary to make a determination on the claim after the investigation as the special examiner deems necessary. The parties shall be promptly notified of the special examiner's decision and any party aggrieved by the decision may appeal to the referee as provided in subsection (c). The claimant and the claimant's most recent employing unit shall be promptly notified of the examiner's or special examiner's decision.

(2) The examiner may for good cause reconsider the examiner's decision and shall promptly notify the claimant and the most recent employing unit of the claimant, that the decision of the examiner is to be reconsidered, except that no reconsideration shall be made after the termination of the benefit year.

(3) Notwithstanding the provisions of any other statute, a decision of an examiner or special examiner shall be final unless the claimant or the most recent employing unit of the claimant files an appeal from the decision as provided in subsection (c), except that the time limit for appeal may be waived or extended by the referee or board of review if a timely response was impossible due to excusable neglect. The appeal must be filed within 16 calendar days after the mailing of notice to the last known addresses of the claimant and employing unit or, if notice is not by mail, within 16 calendar days after the delivery of the notice to the parties.

(c) *Appeals.* Unless the appeal is withdrawn, a referee, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the examiner or special examiner. The parties shall be duly notified of the referee's decision, together with the reasons for the decision. The decision shall be final, notwithstanding the provisions of any other statute, unless a further appeal to the employment security board of review is filed within 16 calendar days after the mailing of the decision to the parties' last known addresses or, if notice is not by mail, within 16 calendar days after the delivery of the decision, except that the time limit for appeal may be waived or extended by the referee or board of review if a timely response was impossible due to excusable neglect.

(d) *Referees.* The secretary shall appoint, in accordance with ~~subsection (e)~~ of K.S.A. 44-714(c), and amendments thereto, one or more referees to hear and decide disputed claims.

(e) *Time, computation and extension.* In computing the period of time for an employing unit response or for appeals under this section from the examiner's or the special examiner's determination or from the referee's decision, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

(f) *Board of review.* (1) There is hereby created an employment security board of

review, hereinafter referred to as the board, consisting of three members. Each member of the board shall be appointed for a term of four years as provided in this subsection. Not more than two members of the board shall belong to the same political party.

(2) When a vacancy on the employment security board of review occurs, the workers compensation and employment security boards nominating committee established under K.S.A. 44-551, and amendments thereto, shall convene and submit a nominee to the governor for appointment to each vacancy on the employment security board of review, subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto. The governor shall either: (A) Accept and submit to the senate for confirmation the person nominated by the nominating committee; or (B) reject the nomination and request the nominating committee to nominate another person for that position. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the employment security board of review, whose appointment is subject to confirmation by the senate, shall exercise any power, duty or function as a member until confirmed by the senate.

(3) No member of the employment security board of review shall serve more than two consecutive terms.

(4) Each member of the employment security board shall serve until a successor has been appointed and confirmed. Any vacancy in the membership of the board occurring prior to expiration of a term shall be filled by appointment for the unexpired term in the same manner as provided for original appointment of the member.

(5) Each member of the employment security board of review shall be entitled to receive as compensation for the member's services at the rate of \$15,000 per year, together with the member's travel and other necessary expenses actually incurred in the performance of the member's official duties in accordance with rules and regulations adopted by the secretary. Members' compensation and expenses shall be paid from the employment security administration fund.

(6) The employment security board of review shall organize annually by the election of a chairperson from among its members. The chairperson shall serve in that capacity for a term of one year and until a successor is elected. The board shall meet on the first Monday of each month or on the call of the chairperson or any two members of the board at the place designated. The secretary of labor shall appoint an executive secretary of the board and the executive secretary shall attend the meetings of the board.

(7) The employment security board of review, on its own motion, may affirm, modify or set aside any decision of a referee on the basis of the evidence previously submitted in the case; may direct the taking of additional evidence; or may permit any of the parties to initiate further appeal before it. The board shall permit such further appeal by any of the parties interested in a decision of a referee which overrules or modifies the decision of an examiner. The board may remove to itself the proceedings on any claim pending before a referee. Any proceedings so removed to the board shall be heard in accordance with the requirements of subsection (c). The board shall promptly notify the interested parties of its findings and decision.

(8) Two members of the employment security board of review shall constitute a quorum and no action of the board shall be valid unless it has the concurrence of at least two members. A vacancy on the board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(g) *Procedure.* The manner in which disputed claims are presented, the reports on

claims required from the claimant and from employers and the conduct of hearings and appeals shall be in accordance with rules of procedure prescribed by the employment security board of review for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings and decisions in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed. In the performance of its official duties, the board shall have access to all of the records which pertain to the disputed claim and are in the custody of the secretary of labor and shall receive the assistance of the secretary upon request.

(h) *Witness fees.* Witnesses subpoenaed pursuant to this section shall be allowed fees and necessary travel expenses at rates fixed by the board. Such fees and expenses shall be deemed a part of the expense of administering this act.

(i) ~~*Court review*~~*Review of board action.* Any action of the employment security board of review ~~is subject to review~~ may not be reconsidered after the mailing of the decision. An action of the board shall become final unless a petition for review in accordance with the Kansas judicial review act is filed within 16 calendar days after the date of the mailing of the decision. If an appeal has not been filed within 16 calendar days of the date of the mailing of the decision, the decision becomes final. No bond shall be required for commencing an action for such review. ~~In the absence of an action for such review, the action of such board shall become final 16 calendar days after the date of the mailing of the decision.~~ In addition to those persons having standing pursuant to K.S.A. 77-611, and amendments thereto, the examiner shall have standing to obtain judicial review of an action of such board. The review proceeding, and the questions of law certified, shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under the workers compensation act.

(j) Any finding of fact or law, judgment, determination, conclusion or final order made by the employment security board of review or any examiner, special examiner, referee or other person with authority to make findings of fact or law pursuant to the employment security law is not admissible or binding in any separate or subsequent action or proceeding, between a person and a present or previous employer brought before an arbitrator, court or judge of the state or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts.

(k) In any proceeding or hearing conducted under this section, a party to the proceeding or hearing may appear before a referee or the employment security board of review either personally or by means of a designated representative to present evidence and to state the position of the party. Hearings may be conducted in person, by telephone or other means of electronic communication. The hearing shall be conducted by telephone or other means of electronic communication if none of the parties requests an in-person hearing. If only one party requests an in-person hearing, the referee shall have the discretion of requiring all parties to appear in person or allow the party not requesting an in-person hearing to appear by telephone or other means of electronic communication. The notice of hearing shall include notice to the parties of their right to request an in-person hearing and instructions on how to make the request.

Sec. 6. K.S.A. 2014 Supp. 44-714 is hereby amended to read as follows: 44-714.

(a) *Duties and powers of secretary.* It shall be the duty of the secretary to administer this act and the secretary shall have power and authority to adopt, amend or revoke such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as the secretary deems necessary or suitable to that end. Such rules and regulations may be adopted, amended, or revoked by the secretary only after public hearing or opportunity to be heard thereon. The secretary shall determine the organization and methods of procedure in accordance with the provisions of this act, and shall have an official seal which shall be judicially noticed. The secretary shall make and submit reports for the administration of the employment security law in the manner prescribed by K.S.A. 75-3044 to 75-3046, inclusive, and 75-3048, and amendments thereto. Whenever the secretary believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, the secretary shall promptly so inform the governor and the legislature, and make recommendations with respect thereto.

(b) *Publication.* The secretary shall cause to be printed for distribution to the public the text of this act, the secretary's rules and regulations and any other material the secretary deems relevant and suitable and shall furnish the same to any person upon application therefor.

(c) *Personnel.* (†) Subject to other provisions of this act, the secretary is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, deputies, attorneys, experts and other persons as may be necessary in carrying out the provisions of this act. ~~The secretary shall classify all positions and shall establish salary schedules and minimum personnel standards for the positions so classified. The secretary shall provide for the holding of examinations to determine the qualifications of applicants for the positions so classified, and, except to temporary appointments not to exceed six months in duration, shall appoint all personnel on the basis of efficiency and fitness as determined in such examinations. The secretary shall not appoint or employ any person who is an officer or committee member of any political party organization or who holds or is a candidate for a partisan elective public office. The secretary shall adopt and enforce fair and reasonable rules and regulations for appointment, promotions and demotions, based upon ratings of efficiency and fitness and for terminations for cause. The secretary may delegate to any such person so appointed such power and authority as the secretary deems reasonable and proper for the effective administration of this act, and may in the secretary's discretion bond any person handling moneys or signing checks under the employment security law.~~

(2) ~~No employee engaged in the administration of the employment security law shall directly or indirectly solicit or receive or be in any manner concerned with soliciting or receiving any assistance, subscription or contribution for any political party or political purpose, other than soliciting and receiving contributions for such person's personal campaign as a candidate for a nonpartisan elective public office, nor shall any employee engaged in the administration of the employment security law participate in any form of political activity except as a candidate for a nonpartisan elective public office, nor shall any employee champion the cause of any political party or the candidacy of any person other than such person's own personal candidacy for a nonpartisan elective public office. Any employee engaged in the administration of the employment security law who violates these provisions shall be immediately discharged. No person shall solicit or receive any contribution for any political purpose~~



~~from any employee engaged in the administration of the employment security law and any such action shall be a misdemeanor and shall be punishable by a fine of not less than \$100 nor more than \$1,000 or by imprisonment in the county jail for not less than 30 days nor more than six months, or both.~~

(d) *Employment stabilization.* The secretary, with the advice and aid of the appropriate divisions of the department of labor, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts and the state, of reserves for public works to be used in time of business depression and unemployment; to promote the reemployment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

(e) *Records and reports.* Each employing unit shall keep true and accurate work records, containing such information as the secretary may prescribe. Such records shall be open to inspection and subject to being copied by the secretary or the secretary's authorized representatives at any reasonable time and shall be preserved for a period of five years from the due date of the contributions or payments in lieu of contributions for the period to which they relate. Only one audit shall be made of any employer's records for any given period of time. Upon request the employing unit shall be furnished a copy of all findings by the secretary or the secretary's authorized representatives, resulting from such audit. A special inquiry or special examination made for a specific and limited purpose shall not be considered to be an audit for the purpose of this subsection. The secretary may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the secretary deems necessary for the effective administration of this act. Information thus obtained or obtained from any individual pursuant to the administration of this act shall be held confidential, except to the extent necessary for the proper presentation of a claim by an employer or employee under the employment security law, and shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the individual's or employing unit's identity. The secretary may publish or otherwise disclose appeals records and decisions, and precedential determinations on coverage of employers, employment and wages, provided all social security numbers have been removed. Any claimant or employing unit or their representatives at a hearing before an appeal tribunal or the secretary shall be supplied with information from such records to the extent necessary for the proper presentation of the claim. The transcript made at any such benefits hearing shall not be discoverable or admissible in evidence in any other proceeding, hearing or determination of any kind or nature. In the event of any appeal of a benefits matter, the transcript shall be sealed by the hearing officer and shall be available only to any reviewing authority who shall reseal the transcript after making a review of it. In no event shall such transcript be deemed a public record. Nothing in this subsection ~~(e)~~ shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts, upon request of either of the parties, for the purpose of administering or adjudicating a claim for benefits under the provisions of any other state program, except that any party receiving such information shall be prohibited from further disclosure and shall be subject to the same duty of confidentiality otherwise imposed by this

subsection-(e) and shall be subject to the penalties imposed by this subsection-(e) for violations of such duty of confidentiality. Nothing in this subsection-(e) shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts, for use as evidence in a criminal investigation or in open court in a criminal prosecution or at an appeal hearing under the employment security law. Nothing in this subsection shall be construed to prohibit disclosure of any information obtained under the employment security law, including hearing transcripts to an agent or contractor of a public official to whom disclosure is permissible under the employment security law, except that any party receiving such information shall be prohibited from further disclosure and shall be subject to the same duty of confidentiality otherwise imposed by this subsection and shall be subject to the penalties imposed by this subsection for violations of such duty of confidentiality. If the secretary or any officer or employee of the secretary violates any provisions of this subsection (e), the secretary or such officer or employee shall be fined not less than \$20 nor more than \$200 or imprisoned for not longer than 90 days, or both. Original records of the agency and original paid benefit warrants of the state treasurer may be made available to the employment security agency of any other state or the federal government to be used as evidence in prosecution of violations of the employment security law of such state or federal government. Photostatic copies of such records shall be made and where possible shall be substituted for original records introduced in evidence and the originals returned to the agency.

(f) *Oaths and witnesses.* In the discharge of the duties imposed by the employment security law, the chairperson of an appeal tribunal, an appeals referee, the secretary or any duly authorized representative of the secretary shall have power to administer oaths and affirmations, take depositions, issue interrogatories, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with a disputed claim or the administration of the employment security law.

(g) *Subpoenas, service.* Upon request, service of subpoenas shall be made by the sheriff of a county within that county, by the sheriff's deputy, by any other person who is not a party and is not less than 18 years of age or by some person specially appointed for that purpose by the secretary of labor or the secretary's designee. A person not a party as described above or a person specially appointed by the secretary or the secretary's designee to serve subpoenas may make service any place in the state. The subpoena shall be served as follows:

(1) *Individual.* Service upon an individual, other than a minor or incapacitated person, shall be made: (A) By delivering a copy of the subpoena to the individual personally; (B) by leaving a copy at such individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; (C) by leaving a copy at the business establishment of the employer with an officer or employee of the establishment; (D) by delivering a copy to an agent authorized by appointment or by law to receive service of process, but if the agent is one designated by a statute to receive service, such further notice as the statute requires shall be given; or (E) if service as prescribed above in subparagraphs (A), (B), (C) or (D) cannot be made with due diligence, by leaving a copy of the subpoena at the individual's dwelling house, usual place of abode or usual business establishment, and by mailing a notice by first-class mail to the place that the copy has been left.

(2) *Corporations and partnerships.* Service upon a domestic or foreign corporation or upon a partnership or other unincorporated association, when by law it may be sued as such, shall be made by delivering a copy of the subpoena to an officer, partner or resident managing or general agent thereof, or by leaving the copy at any business office of the employer with the person having charge thereof or by delivering a copy to any other agent authorized by appointment or required by law to receive service of process, if the agent is one authorized by law to receive service and, if the law so requires, by also mailing a copy to the employer.

(3) *Refusal to accept service.* In all cases when the person to be served, or an agent authorized by such person to accept service of petitions and summonses shall refuse to receive copies of the subpoena, the offer of the duly authorized process server to deliver copies thereof and such refusal shall be sufficient service of such subpoena.

(4) *Proof of service.* (A) Every officer to whom a subpoena or other process shall be delivered for service within or without the state, shall make return thereof in writing stating the time, place and manner of service of such writ and shall sign such officer's name to such return.

(B) If service of the subpoena is made by a person appointed by the secretary or the secretary's designee to make service, or any other person described in subsection (g) ~~of this section~~, such person shall make an affidavit as to the time, place and manner of service thereof in a form prescribed by the secretary or the secretary's designee.

(5) *Time for return.* The officer or other person receiving a subpoena shall make a return of service promptly and shall send such return to the secretary or the secretary's designee in any event within 10 days after the service is effected. If the subpoena cannot be served it shall be returned to the secretary or the secretary's designee within 30 days after the date of issue with a statement of the reason for the failure to serve the same.

(h) *Subpoenas, enforcement.* In case of contumacy by or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which such person guilty of contumacy or refusal to obey is found, resides or transacts business, upon application by the secretary or the secretary's duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before the secretary, or the secretary's duly authorized representative, to produce evidence, if so ordered, or to give testimony relating to the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as a contempt thereof. Any person who, without just cause, shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda or other records in obedience to the subpoena of the secretary or the secretary's duly authorized representative shall be punished by a fine of not less than \$200 or by imprisonment of not longer than 60 days, or both, and each day such violation continued shall be deemed to be a separate offense.

(i) *State-federal cooperation.* In the administration of this act, the secretary shall cooperate to the fullest extent consistent with the provisions of this act, with the federal security agency, shall make such reports, in such form and containing such information as the federal security administrator may from time to time require, and shall comply with such provisions as the federal security administrator may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the federal security agency governing the expenditures of such sums as may be allotted and paid to this state under title III of the

social security act for the purpose of assisting in the administration of this act. Upon request therefor the secretary shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this act.

(j) *Reciprocal arrangements.* The secretary shall participate in making reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby:

(1) Services performed by an individual for a single employing unit for which services are customarily performed in more than one state shall be deemed to be services performed entirely within any one of the states: (A) In which any part of such individual's service is performed; (B) in which such individual maintains residence; or (C) in which the employing unit maintains a place of business, provided there is in effect as to such services, an election, approved by the agency charged with the administration of such state's unemployment compensation law, pursuant to which all the services performed by such individual for such employing units are deemed to be performed entirely within such state;

(2) service performed by not more than three individuals, on any portion of a day but not necessarily simultaneously, for a single employing unit which customarily operates in more than one state shall be deemed to be service performed entirely within the state in which such employing unit maintains the headquarters of its business; provided that there is in effect, as to such service, an approved election by an employing unit with the affirmative consent of each such individual, pursuant to which service performed by such individual for such employing unit is deemed to be performed entirely within such state;

(3) potential rights to benefits accumulated under the employment compensation laws of one or more states or under one or more such laws of the federal government, or both, may constitute the basis for the payments of benefits through a single appropriate agency under terms which the secretary finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund;

(4) wages or services, upon the basis of which an individual may become entitled to benefits under an unemployment compensation law of another state or of the federal government, shall be deemed to be wages for insured work for the purpose of determining such individual's rights to benefits under this act, and wages for insured work, on the basis of which an individual may become entitled to benefits under this act, shall be deemed to be wages or services on the basis of which unemployment compensation under such law of another state or of the federal government is payable, but no such arrangement shall be entered into unless it contains provisions for reimbursements to the fund for such of the benefits paid under this act upon the basis of such wages or services, and provisions for reimbursements from the fund for such of the compensation paid under such other law upon the basis of wages for insured work, as the secretary finds will be fair and reasonable as to all affected interests; and

(5) (A) contributions due under this act with respect to wages for insured work shall be deemed for the purposes of K.S.A. 44-717, and amendments thereto, to have been paid to the fund as of the date payment was made as contributions therefor under another state or federal unemployment compensation law, but no such arrangement shall be entered into unless it contains provisions for such reimbursements to the fund

of such contributions and the actual earnings thereon as the secretary finds will be fair and reasonable as to all affected interests;

(B) reimbursements paid from the fund pursuant to subsection (j)(4) ~~of this section~~ shall be deemed to be benefits for the purpose of K.S.A. 44-704 and 44-712, and amendments thereto; the secretary is authorized to make to other state or federal agencies, and to receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements entered into pursuant to the provisions of this section or any other section of the employment security law;

(C) the administration of this act and of other state and federal unemployment compensation and public employment service laws will be promoted by cooperation between this state and such other states and the appropriate federal agencies in exchanging services and in making available facilities and information; the secretary is therefore authorized to make such investigations, secure and transmit such information, make available such services and facilities and exercise such of the other powers provided herein with respect to the administration of this act as the secretary deems necessary or appropriate to facilitate the administration of any such unemployment compensation or public employment service law and, in like manner, to accept and utilize information, service and facilities made available to this state by the agency charged with the administration of any such other unemployment compensation or public employment service law; and

(D) to the extent permissible under the laws and constitution of the United States, the secretary is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this act and facilities and services provided under the unemployment compensation law of any foreign government may be utilized for the taking of claims and the payment of benefits under the employment security law of this state or under a similar law of such government.

(k) *Records available.* The secretary may furnish the railroad retirement board, at the expense of such board, such copies of the records as the railroad retirement board deems necessary for its purposes.

(l) *Destruction of records, reproduction and disposition.* The secretary may provide for the destruction, reproduction, temporary or permanent retention, and disposition of records, reports and claims in the secretary's possession pursuant to the administration of the employment security law provided that prior to any destruction of such records, reports or claims the secretary shall comply with K.S.A. 75-3501 to 75-3514, inclusive, and amendments thereto.

(m) *Federal cooperation.* The secretary may afford reasonable cooperation with every agency of the United States charged with administration of any unemployment insurance law.

(n) The secretary is hereby authorized to fix, charge and collect fees for copies made of public documents, as defined by ~~subsection (e) of~~ K.S.A. 45-217(c), and amendments thereto, by xerographic, thermographic or other photocopying or reproduction process, in order to recover all or part of the actual costs incurred, including any costs incurred in certifying such copies. All moneys received from fees charged for copies of such documents 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 employment security administration fund. No such fees

shall be charged or collected for copies of documents that are made pursuant to a statute which requires such copies to be furnished without expense.

Sec. 7. K.S.A. 2014 Supp. 44-717 is hereby amended to read as follows: 44-717. (a) (1) *Penalties on past-due reports, interest on past-due contributions, payments in lieu of contributions, benefit cost payments and interest assessments made under K.S.A. 44-710a, and amendments thereto.* Any employer or any officer or agent of an employer, who fails to file any wage report or contribution return by the last day of the month following the close of each calendar quarter to which they are related shall pay a penalty as provided by this subsection for each month or fraction of a month until the report or return is received by the secretary of labor except that for calendar years 2010 and 2011 an employer or any officer or agent of the employer shall have up to 90 days past the due date for any of the first three calendar quarters in a calendar year to pay such employer's contribution without being charged any interest, however, when the 90 day period has passed, the provisions of this section shall apply. The penalty for each month or fraction of a month shall be an amount equal to .05% of the total wages paid by the employer during the quarter, except that no penalty shall be less than \$25 nor more than \$200 for each such report or return not timely filed. Contributions, benefit cost payments and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, unpaid by the last day of the month following the last calendar quarter to which they are related and payments in lieu of contributions unpaid 30 days after the mailing of the statement of benefit charges, shall bear interest at the rate of 1% per month or fraction of a month until payment is received by the secretary of labor except that an employing unit, which is not theretofore subject to this law and which becomes an employer and does not refuse to make the reports, returns and contributions, payments in lieu of contributions and benefit cost payments required under this law, shall not be liable for such penalty or interest if the wage reports and contribution returns required are filed and the contributions, payments in lieu of contributions or benefit cost payments required are paid within 10 days following notification by the secretary of labor that a determination has been made fixing its status as an employer subject to this law. Upon written request and good cause shown, the secretary of labor may abate any penalty or interest or portion thereof provided for by this subsection. Interest amounting to less than \$5 shall be waived by the secretary of labor and shall not be collected. Penalties and interest collected pursuant to this subsection shall be paid into the special employment security fund. For all purposes under this section, amounts assessed as surcharges under subsection (j) or under K.S.A. 44-710a, and amendments thereto, shall be considered to be contributions and shall be subject to penalties and interest imposed under this section and to collection in the manner provided by this section. For all purposes under this section, amounts assessed under K.S.A. 44-710a, and amendments thereto, shall be subject to penalties and interest imposed under this section and to collection in the manner provided in this section. For purposes of this subsection, a wage report, a contribution return, a contribution, a payment in lieu of contribution, a benefit cost payment or an interest assessment made pursuant to K.S.A. 44-710a, and amendments thereto, is deemed to be filed or paid as of the date it is placed in the United States mail.

(2) Notices of payment and reporting delinquency to Indian tribes or their tribal units shall include information that failure to make full payment within the prescribed time frame:

(i) Will cause the Indian tribe to be liable for taxes under FUTA;  
 (ii) will cause the Indian tribe to lose the option to make payments in lieu of contributions;

(iii) could cause the Indian tribe to be excepted from the definition of "employer," as provided in ~~paragraph (h)(3)~~ of K.S.A. 44-703(h)(3), and amendments thereto, and services in the employ of the Indian tribe, as provided in ~~paragraph (i)(3)(E)~~ of K.S.A. 44-703(i)(3)(E), and amendments thereto, to be excepted from "employment."

(b) *Collection.* (1) If, after due notice, any employer defaults in payment of any penalty, contributions, payments in lieu of contributions, benefit cost payments, interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, or interest thereon the amount due may be collected by civil action in the name of the secretary of labor and the employer adjudged in default shall pay the cost of such action. Civil actions brought under this section to collect contributions, payments in lieu of contributions, benefit cost payments, interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, penalties, or interest thereon from an employer shall be heard by the district court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this act and cases arising under the workmen's compensation act. All liability determinations of contributions due, payments in lieu of contributions, benefit cost payments and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, due shall be made within a period of five years from the date such contributions, payments in lieu of contributions, benefit cost payments and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, were due except such determinations may be made for any time when an employer has filed fraudulent reports with intent to evade liability.

(2) Any employing unit which is not a resident of this state and which exercises the privilege of having one or more individuals perform service for it within this state and any resident employing unit which exercises that privilege and thereafter removes from this state, shall be deemed thereby to appoint the secretary of state as its agent and attorney for the acceptance of process in any civil action under this subsection. In instituting such an action against any such employing unit the secretary of labor shall cause such process or notice to be filed with the secretary of state and such service shall be sufficient service upon such employing unit and shall be of the same force and validity as if served upon it personally within this state. The secretary of labor shall send notice immediately of the service of such process or notice, together with a copy thereof, by registered or certified mail, return receipt requested, to such employing unit at its last-known address and such return receipt, the affidavit of compliance of the secretary of labor with the provisions of this section, and a copy of the notice of service, shall be appended to the original of the process filed in the court in which such civil action is pending.

(3) The district courts of this state shall entertain, in the manner provided in subsections (b)(1) and (b)(2), actions to collect contributions, payments in lieu of contributions, interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, and other amounts owed including interest thereon for which liability has accrued under the employment security law of any other state or of the federal government.

(c) *Priorities under legal dissolutions or distributions.* In the event of any

distribution of employer's assets pursuant to an order of any court under the laws of this state, including but not limited to any probate proceeding, interpleader, receivership, assignment for benefit of creditors, adjudicated insolvency, composition or similar proceedings, contributions payments in lieu of contributions or interest assessments made under K.S.A. 44-710a, and amendments thereto, then or thereafter due shall be paid in full from the moneys which shall first come into the estate, prior to all other claims, except claims for wages of not more than \$250 to each claimant, earned within six months of the commencement of the proceedings. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the federal bankruptcy act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as is provided in that act for taxes due any state of the United States.

(d) *Assessments.* If any employer fails to file a report or return required by the secretary of labor for the determination of contributions, or payments in lieu of contributions, or benefit cost payments, the secretary of labor may make such reports or returns or cause the same to be made, on the basis of such information as the secretary may be able to obtain and shall collect the contributions, payments in lieu of contributions or benefit cost payments as determined together with any interest due under this act. The secretary of labor shall immediately forward to the employer a copy of the assessment by registered or certified mail to the employer's address as it appears on the records of the agency, and such assessment shall be final unless the employer protests such assessment and files a corrected report or return for the period covered by the assessment within 15 days after the mailing of the copy of assessment. Failure to receive such notice shall not invalidate the assessment. Notice in writing shall be presumed to have been given when deposited as certified or registered matter in the United States mail, addressed to the person to be charged with notice at such person's address as it appears on the records of the agency.

(e) (1) *Lien.* If any employer or person who is liable to pay contributions, payments in lieu of contributions, benefit cost payments and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, neglects or refuses to pay the same after demand, the amount, including interest and penalty, shall be a lien in favor of the state of Kansas, secretary of labor, upon all property and rights to property, whether real or personal, belonging to such employer or person. Such lien shall not be valid as against any mortgagee, pledgee, purchaser or judgment creditor until notice thereof has been filed by the secretary of labor in the office of register of deeds in any county in the state of Kansas, in which such property is located, and when so filed shall be notice to all persons claiming an interest in the property of the employer or person against whom filed. The register of deeds shall enter such notices in the financing statement record and shall also record the same in full in miscellaneous record and index the same against the name of the delinquent employer. The register of deeds shall accept, file, and record such notice without prepayment of any fee, but lawful fees shall be added to the amount of such lien and collected when satisfaction is presented for entry. Such lien shall be satisfied of record upon the presentation of a certificate of discharge by the state of Kansas, secretary of labor. Nothing contained in this subsection shall be construed as an invalidation of any lien or notice filed in the name of the unemployment compensation division or the employment security division and such liens shall be and remain in full force and effect until satisfied as provided by this subsection.



(2) *Authority of secretary or authorized representative.* If any employer or person who is liable to pay any contributions, payments in lieu of contributions, benefit cost payments and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, including interest and penalty, neglects or refuses to pay the same within 10 days after notice and demand therefor, the secretary or the secretary's authorized representative may collect such contributions, payments in lieu of contributions, benefit cost payments and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, including interest and penalty, and such further amount as is sufficient to cover the expenses of the levy, by levy upon all property and rights to property which belong to the employer or person or which have a lien created thereon by this subsection for the payment of such contributions, payments in lieu of contributions, benefit cost payments and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, including interest and penalty. As used in this subsection, "property" includes all real property and personal property, whether tangible or intangible, except such property which is exempt under K.S.A. 60-2301 et seq., and amendments thereto. Levy may be made upon the accrued salary or wages of any officer, employee or elected official of any state or local governmental entity which is subject to K.S.A. 60-723, and amendments thereto, by serving a notice of levy as provided in ~~subsection (d) of~~ K.S.A. 60-304(d), and amendments thereto. If the secretary or the secretary's authorized representative makes a finding that the collection of the amount of such contributions, payments in lieu of contributions, benefit cost payments and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, including interest and penalty, is in jeopardy, notice and demand for immediate payment of such amount may be made by the secretary or the secretary's authorized representative and, upon failure or refusal to pay such amount, immediate collection of such amount by levy shall be lawful without regard to the 10-day period provided in this subsection.

(3) *Seizure and sale of property.* The authority to levy granted under this subsection includes the power of seizure by any means. A levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the secretary or the secretary's authorized representative may levy upon property or rights to property, the secretary or the secretary's authorized representative may seize and sell such property or rights to property.

(4) *Successive seizures.* Whenever any property or right to property upon which levy has been made under this subsection is not sufficient to satisfy the claim of the secretary for which levy is made, the secretary or the secretary's authorized representative may proceed thereafter and as often as may be necessary, to levy in like manner upon any other property or rights to property which belongs to the employer or person against whom such claim exists or upon which a lien is created by this subsection until the amount due from the employer or person, together with all expenses, is fully paid.

(f) *Warrant.* In addition or as an alternative to any other remedy provided by this section and provided that no appeal or other proceeding for review permitted by this law shall then be pending and the time for taking thereof shall have expired, the secretary of labor or an authorized representative of the secretary may issue a warrant certifying the amount of contributions, payments in lieu of contributions, benefit cost payments, interest or penalty, and the name of the employer liable for same after giving

15 ~~days~~ days' prior notice. Upon request, service of final notices shall be made by the sheriff within the sheriff's county, by the sheriff's deputy or some person specially appointed by the secretary for that purpose, or by the secretary's designee. A person specially appointed by the secretary or the secretary's designee to serve final notices may make service any place in the state. Final notices shall be served as follows:

(1) *Individual.* Service upon an individual, other than a minor or incapacitated person, shall be made by delivering a copy of the final notice to the individual personally or by leaving a copy at such individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, by leaving a copy at the business establishment of the employer with an officer or employee of the establishment, or by delivering a copy to an agent authorized by appointment or by law to receive service of process, but if the agent is one designated by a statute to receive service, such further notice as the statute requires shall be given. If service as prescribed above cannot be made with due diligence, the secretary or the secretary's designee may order service to be made by leaving a copy of the final notice at the employer's dwelling house, usual place of abode or business establishment.

(2) *Corporations and partnerships.* Service upon a domestic or foreign corporation or upon a partnership or other unincorporated association, when by law it may be sued as such, shall be made by delivering a copy of the final notice to an officer, partner or resident managing or general agent thereof by leaving a copy at any business office of the employer with the person having charge thereof or by delivering a copy to any other agent authorized by appointment or required by law to receive service of process, if the agent is one authorized by law to receive service and, if the law so requires, by also mailing a copy to the employer.

(3) *Refusal to accept service.* In all cases when the person to be served, or an agent authorized by such person to accept service of petitions and summonses, shall refuse to receive copies of the final notice, the offer of the duly authorized process server to deliver copies thereof and such refusal shall be sufficient service of such notice.

(4) *Proof of service.* (A) Every officer to whom a final notice or other process shall be delivered for service within or without the state, shall make return thereof in writing stating the time, place and manner of service of such writ, and shall sign such officer's name to such return.

(B) If service of the notice is made by a person appointed by the secretary or the secretary's designee to make service, such person shall make an affidavit as to the time, place and manner of service thereof in a form prescribed by the secretary or the secretary's designee.

(5) *Time for return.* The officer or other person receiving a final notice shall make a return of service promptly and shall send such return to the secretary or the secretary's designee in any event within 10 days after the service is effected. If the final notice cannot be served it shall be returned to the secretary or the secretary's designee within 30 days after the date of issue with a statement of the reason for the failure to serve the same. The original return shall be attached to and filed with any warrant thereafter filed.

(6) *Service by mail.* (A) Upon direction of the secretary or the secretary's designee, service by mail may be effected by forwarding a copy of the notice to the employer by registered or certified mail to the employer's address as it appears on the records of the agency. A copy of the return receipt shall be attached to and filed with any warrant thereafter filed.

(B) The secretary of labor or an authorized representative of the secretary may file the warrant for record in the office of the clerk of the district court in the county in which the employer owing such contributions, payments in lieu of contributions, benefit cost payments, interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, interest, or penalty has business property. The warrant shall certify the amount of contributions, payments in lieu of contributions, benefit cost payments, interest and penalty due, and the name of the employer liable for such amount. It shall be the duty of the clerk of the district court to file such warrant of record and enter the warrant in the records of the district court for judgment and decrees under the procedure prescribed for filing transcripts of judgment.

(C) The clerk shall enter, on the day the warrant is filed, the case on the appearance docket, together with the amount and the time of filing the warrant. From the time of filing such warrant, the amount of the contributions, payments in lieu of contributions, benefit cost payments, interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, interest, and penalty, certified therein, shall have the force and effect of a judgment of the district court until the same is satisfied by the secretary of labor or an authorized representative or attorney for the secretary. Execution shall be issuable at the request of the secretary of labor, an authorized representative or attorney for the secretary, as is provided in the case of other judgments.

(D) Postjudgment procedures shall be the same as for judgments according to the code of civil procedure.

(E) Warrants shall be satisfied of record by payment to the clerk of the district court of the contributions, payments in lieu of contributions, benefit cost payments, interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, penalty, interest to date, and court costs. Warrants may also be satisfied of record by payment to the clerk of the district court of all court costs accrued in the case and by filing a certificate by the secretary of labor, certifying that the contributions, payments in lieu of contributions, benefit cost payments, interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, interest and penalty have been paid.

(g) *Remedies cumulative.* The foregoing remedies shall be cumulative and no action taken shall be construed as an election on the part of the state or any of its officers to pursue any remedy or action under this section to the exclusion of any other remedy or action for which provision is made.

(h) *Refunds.* If any individual, governmental entity or organization makes application for refund or adjustment of any amount paid as contributions, benefit cost payments, interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, or interest under this law and the secretary of labor determines that such amount or any portion thereof was erroneously collected, except for amounts less than \$5, the secretary of labor shall allow such individual or organization to make an adjustment thereof, in connection with subsequent contribution payments, or if such adjustment cannot be made the secretary of labor shall refund the amount, except for amounts less than \$5, from the employment security fund, except that all interest erroneously collected which has been paid into the special employment security fund shall be refunded out of the special employment security fund. No adjustment or refund shall be allowed with respect to a payment as contributions, interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, or interest unless an application therefor is made on or before whichever of the following dates is later: (1) One year from the date

on which such payment was made; or (2) three years from the last day of the period with respect to which such payment was made. For like cause and within the same period adjustment or refund may be so made on the secretary's own initiative. The secretary of labor shall not be required to refund any contributions, payments in lieu of contributions or benefit cost payments based upon wages paid which have been used as base-period wages in a determination of a claimant's benefit rights when justifiable and correct payments have been made to the claimant as the result of such determination. For all taxable years commencing after December 31, 1997, interest at the rate prescribed in K.S.A. 79-2968, and amendments thereto, shall be allowed on a contribution or benefit cost payment which the secretary has determined was erroneously collected pursuant to this section.

(i) (1) *Cash deposit or bond.* If any contributing employer is delinquent in making payments under the employment security law during any two quarters of the most recent four-quarter period, the secretary or the secretary's authorized representative shall have the discretionary power to require such contributing employer either to deposit cash or to file a bond with sufficient sureties to guarantee the payment of contributions, interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, penalty and interest owed by such employer.

(2) The amount of such cash deposit or bond shall be not less than the largest total amount of contributions, interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, penalty and interest reported by the employer in two of the four calendar quarters preceding any delinquency. Such cash deposit or bond shall be required until the employer has shown timely filing of reports and payment of contributions and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, for four consecutive calendar quarters.

(3) Failure to file such cash deposit or bond shall subject the employer to a surcharge of 2.0% which shall be in addition to the rate of contributions assigned to the employer under K.S.A. 44-710a, and amendments thereto. Contributions paid as a result of this surcharge shall not be credited to the employer's experience rating account. This surcharge shall be effective during the next full calendar year after its imposition and during each full calendar year thereafter until the employer has filed the required cash deposit or bond or has shown timely filing of reports and payment of contributions for four consecutive calendar quarters.

(j) Any officer, major stockholder or other person who has charge of the affairs of an employer, which is an employing unit described in section 501(c)(3) of the federal internal revenue code of 1954 or which is any other corporate organization or association, or any member or manager of a limited liability company, or any public official, who willfully fails to pay the amount of contributions, payments in lieu of contributions, benefit cost payments and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, required to be paid under the employment security law on the date on which such amount becomes delinquent, shall be personally liable for the total amount of the contributions, payments in lieu of contributions, benefit cost payments and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, and any penalties and interest due and unpaid by such employing unit. The secretary or the secretary's authorized representative may assess such person for the total amount of contributions, payments in lieu of contributions, benefit cost payments and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto,

and any penalties, and interest computed as due and owing. With respect to such persons and such amounts assessed, the secretary shall have available all of the collection remedies authorized or provided by this section.

(k) *Electronic filing of wage report and contribution return and electronic payment of contributions, benefit cost payments, reimbursing payments or interest assessments under K.S.A. 44-710a, and amendments thereto.* The following employers or third party administrators shall file all wage reports and contribution returns and make payment of contributions, benefit cost payments or reimbursing payments electronically as follows:

(1) ~~Wage reports, contribution returns and payments due after June 30, 2008, for those employers with 250 or more employees or third party administrators with 250 or more client employees at the time such filing or payment is first due;~~

(2) ~~wage reports, contribution returns and payments due after June 30, 2009, for those employers with 100 or more employees or third party administrators with 100 or more client employees at the time such filing or payment is first due; and~~

(3) ~~Wage reports, contribution returns, payments and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, due after June 30, 2010, for those employers with 50 or more employees and for those third party administrators with 50 or more client employees at the time such filing or payment is first due; and~~

(2) wage reports, contribution returns, payments and interest assessments made pursuant to K.S.A. 44-710a, and amendments thereto, due after June 30, 2016, for all employers and third party administrators.

The requirements of this subsection may be waived by the secretary for an employer if the employer demonstrates a hardship in complying with this subsection.";

And by renumbering sections accordingly;

Also on page 26, in line 5, before "44-710a" by inserting ", 44-706, 44-709,"; also in line 5, after "44-710a" by inserting ", 44-714, 44-717";

On page 1, in the title, in line 2, after the second semicolon by inserting "administration by secretary of labor; employment security personnel,"; in line 3, before "44-710a" by inserting "44-706, 44-709,"; also in line 3, after "44-710a" by inserting ", 44-714, 44-717"; and the bill be passed as amended.

Committee on **Elections** recommends **HB 2182**, be amended by the adoption of the amendments recommended by the House Committee on Elections as reported in the Journal of the House on February 13, 2015, and the bill, as printed with amendments by House Committee, be passed as amended.

Committee on **Elections** recommends **HB 2213**, be amended by adoption of the amendments recommended by the House Committee on Elections as reported in the Journal of the House on February 19, 2015, and the bill, as printed with amendments by House Committee, be passed as amended.

Committee on **Elections** recommends **HB 2215**, be amended on page 6, following line 37, by inserting:

"New Sec. 4. (a) When transferring residual funds raised during the current election cycle to a bona fide successor committee or candidacy as defined in K.S.A. 25-4157a(d), and amendments thereto, the candidate may only transfer residual funds for the office sought subject to the contribution limits as set forth in K.S.A. 25-4153, and amendments thereto. Any moneys in excess of such limitations shall be returned as a refund to any contributor or contributors from whom such moneys were received.

(b) This section shall be part of and supplemental to the campaign finance act.";

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

Committee on **Elections** recommends **HB 2398** be amended on page 1, by striking lines 5 through 25;

And by renumbering sections accordingly;

On page 1, in the title, in line 1, before "concerning" by inserting "repealing K.S.A. 2014 Supp. 25-4501,"; also in lines 1, by striking all after "primary"; in line 2, by striking all before the period; and the bill be passed as amended.

Committee on **Elections** recommends **SB 77** be amended on page 4, in line 12, by striking "\$275" and inserting "\$300"; and the bill be passed as amended.

Committee on **Elections** recommends **Substitute for SB 171** be amended on page 1, in line 24, by striking "2017" and inserting "2016"; in line 26, by striking "2017" and inserting "2016"; in line 27, by striking "odd-numbered" and inserting "even-numbered"; in line 30, by striking "2017" and inserting "2016"; also in line 30, by striking "odd-numbered" and inserting "even-numbered"; in line 32, by striking "2017" and inserting "2016"; in line 33, by striking "2018" and inserting "2017";

On page 2, in line 2, by striking "2019" and inserting "2017"; in line 3, by striking "2020" and inserting "2018"; in line 22, by striking all after the second comma; in line 23, by striking all before "school" and inserting "and"; also in line 23, by striking all after "district"; by striking all in lines 24 through 31; in line 32, by striking all before the period; following line 35, by inserting:

"New Sec. 2. (a) On and after January 1, 2016, all primary elections for members of the governing body and other elected officials of any special district shall be held on the first Tuesday in August of 2017 and on such date thereafter of odd-numbered years and all general elections for members of the governing body and other elected officials of any special district shall be held on the Tuesday succeeding the first Monday in November of 2017 of odd-numbered years and on such date thereafter.

(b) The term of members of governing bodies and other elected officials of special districts that would expire at any time in 2017 shall expire on the second Monday in January of 2018, when newly elected members of the governing body and other newly elected officials shall take office. The governing body of the special district shall establish by resolution terms of office of elected officials to comply with this act.

(c) Primary elections for any special district, if otherwise required by law, shall be conducted on the first Tuesday in August in odd-numbered years.

(d) The county election officers, with the assistance of the secretary of state, shall conduct special district primary and general elections in odd-numbered years.

(e) Any person who meets the qualifications for the office sought may become a candidate for the special district office by filing a declaration of intent to become a candidate with the county election officer accompanied by a filing fee of \$20.

(f) All elections for officers of special districts shall be on a non-partisan basis.

(g) The filing deadline for all candidates for any special district unless otherwise provided by law shall be as provided in K.S.A. 25-205, and amendments thereto.

(h) "Special district" means: (1) Any board of public utilities created under K.S.A. 13-1220 et seq., and amendments thereto, community college, drainage district, extension district created under K.S.A. 2-623 et seq., and amendments thereto, irrigation district, improvement district created under K.S.A. 19-2753 et seq., and amendments thereto, water district created under K.S.A. 19-3501 et seq., and amendments thereto, and hospital district created under K.S.A. 80-2501 et seq., and

amendments thereto.

(2) The term does not include any special district where the election of members of the governing body is conducted at a meeting of the special district.";

Also on page 2, in line 36, before "All" by inserting "(a) A city shall continue to operate under its current form of government whether established at an election, or by adoption of a charter ordinance or ordinance until such time that the city's form of government is changed as provided by law.

(b)";

Also on page 2, in line 40, after "(b)" by inserting "and section 5, and amendments thereto";

On page 3, in line 16, after "two" by inserting ", three"; following line 21, by inserting:

"New Sec. 5. (a) Any city may adopt the commission-manager, mayor-council manager or council manager form of government in the manner herein provided and shall thereafter be governed by the provisions of this act. A proposition to adopt such form of government must first be submitted to a vote of the qualified electors of the city at any primary or general election. The governing body of the city may submit the proposition by resolution and must submit it upon the filing of a petition signed by at least 10% of the qualified electors of the city. The petition shall be headed "Petition for an election of the city of \_\_\_\_\_, Kansas, to vote on the adoption of the \_\_\_\_\_ (commission-manager, mayor-council manager or council manager) form of government," and shall be addressed to the governing body of the city, and be filed with the election officer of the county in which the city is located. The petition shall conform to the requirements of article 36 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto, and its sufficiency shall be determined in the manner therein provided and shall be certified to the city clerk by the county election officer.

(b) The resolution or the petition shall establish the membership and terms of office of the governing body. Upon the adoption of a resolution or the certification of a petition as provided in this section, the governing body of the city shall submit the proposition at the next primary or general election. Notice thereof shall be published in the manner provided by K.S.A. 25-105, and amendments thereto.

(c) The form of the ballots to be used at the election shall be as follows:

"Shall the city of \_\_\_\_\_ adopt the \_\_\_\_\_ (commission-manager, mayor-council manager or council manager) form of government and become a city operating under such form of government?"

Yes  No

If a majority of the votes cast shall be in favor of adopting the commission-manager, mayor-council manager or council manager plan of government, then at the next regular city election the governing body of the city shall be elected as provided in the resolution or petition.

New Sec. 6. (a) The governing body shall establish by ordinance the qualifications, oath and powers and duties and terms of office of the governing body.

(b) Any action taken by the city governing body shall be by a majority vote of the members unless a greater number of votes are specifically required by another provision of law.

(c) The city governing body shall appoint a city manager to be responsible for the

administration and affairs of the city. The city manager shall see that all laws and ordinances are enforced. The city manager shall serve at the pleasure of the governing body.

(d) The city manager shall appoint and remove all heads of departments and all subordinate officers and employees of the city. All appointments shall be made upon merit and fitness alone.

New Sec. 7. Any city operating under the provisions of this act may abandon the commission-manager, mayor-council manager or council manager form of city government in the same manner as is provided in section 5, and amendments thereto, for the adoption of such form of city government except as herein otherwise provided, and except that the word "abandonment" instead of the word "adoption" shall be used in the petition therefor, and the word "abandon" instead of the word "adopt" shall be used in the form of the ballot and in the election proclamation. If a majority of votes cast upon the proposition shall be in favor of abandoning the commission-manager, mayor-council manager or council manager form of city government, then the city shall operate under the alternative form of government established in the resolution or petition.";

On page 4, in line 3, after the second "the" by inserting "style and form of the"; in line 4, after "ballot" by inserting "and the official general election ballot"; also in line 4, after "offices" by inserting "and special district offices"; in line 8, after "in" by inserting "both even-numbered and"; in line 18, after "municipalities" by inserting "and special districts"; in line 19, after "(e)" by inserting "The secretary of state shall establish general election procedures for general elections for municipalities and special districts.

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

(g)";

Also on page 4, in line 21, by striking "7" and inserting "11";

On page 8, in line 8, by striking "6" and inserting "10"; following line 31, by inserting:

"Sec. 14. K.S.A. 13-1220 is hereby amended to read as follows: 13-1220. ~~In each city of the first class that now has or hereafter acquires a population of more than one hundred thousand inhabitants, which now or hereafter owns and operates a municipal waterworks plant and a municipal electric-light plant, there shall be~~ Any city may establish an administrative agency known as the board of public utilities of such city, to be elected in the manner hereinafter provided. The board shall manage, operate, maintain and control the daily operation of the water plant and electric-light plant of such city, and shall make all such rules and regulations as are necessary for the safe, economical and efficient operation and management of such water plants and electric-light plants. The board may also improve, extend or enlarge the water plants and electric-light plants as hereinafter provided, and furnish a supply of water, light, heat and power for domestic, industrial and municipal purposes.";

On page 11, following line 24 by inserting "(a) The water district election shall be held in each election precinct, a part or all of which is located within such water district, except that if no other election is being held in a given election precinct on the same date as the water district election, the county election officer may provide one or more convenient voting places where the water district electors of such precinct may vote, which may be a voting place located in another precinct. The county election officer



shall designate such voting places and the persons entitled to vote thereat in the election notice. The county election officer shall make a report in writing to the board of county commissioners of such election precincts and voting places, which report shall be filed with the county clerk of the county or counties in which such precincts and voting places are located and an entry thereof made upon the journal of the board or boards of county commissioners of such county or counties and if any change shall be made in such voting precincts and voting places by the county election officer, the same shall in like manner be reported to the board or boards of county commissioners, filed and entered. The polls for any election held under this act shall be open between the hours of 7 a.m. and 7 p.m.";

Also on page 11, in line 25, by striking "(a)" and inserting "(b)"; in line 30, by striking "6" and inserting "10";

On page 12, following line 21, by inserting:

"(c) Where the only election being conducted in an election precinct or voting place is the water district election, the cost of providing judges and clerks in such precinct or voting place shall be borne entirely by the water district, but where held in conjunction with other elections, the cost shall be prorated in the manner provided by article 22 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto.

(d) At least five days before any election, the county election officers of the various counties within which a portion of such district is located, in cooperation with the water district board, shall determine the voting areas where no other elections will be held in conjunction with the water district and the names of all qualified electors residing in the water district and located in such precincts and shall determine the election precincts which contain only a part of the water district and the names of all qualified electors residing in the water district and in such election precincts. A list of the qualified electors determined shall be furnished by the county election officer to the judges of the voting precincts or voting places where such electors are entitled to vote.";

Also on page 12, in line 22, by striking "(b)" and inserting "(e)"; in line 23, by striking "(c)" and inserting "(f)"; also in line 23, by striking "part or all" and inserting "the entirety"; in line 25, before the period by inserting "and a separate list of their names need not be furnished"; following line 39, by inserting:

"(g) A voter shall not be eligible to vote in any election precinct other than the one in which such person resides unless no election is being held in such precinct, in which event, such voter shall be entitled to vote in the voting place designated by the county election officer.

(h) Such list furnished by the county election officer to the judges of each precinct shall be conclusive at all elections, except that one desirous of voting, whose name does not appear on such list, may proceed to the county election officer of the county and such officer may administer oaths and affirm witnesses to determine the right of anyone to vote who may claim erroneous omission from such list, and if such officer issues a certificate entitling the voter to vote, such certificate shall be accepted by the judges and clerks of the election. The list so furnished by the county election officer shall be conclusive at all elections held within the same year that the list is furnished.";

On page 13, in line 19, by striking "6" and inserting "10";

On page 16, by striking all in lines 1 through 12; in line 15, after "for" by inserting "municipal,";

On page 19, in line 5, by striking "odd-numbered"; in line 6, by striking all before

"qualified" and inserting "even-numbered year elections and in odd-numbered years when needed. Persons shall become"; in line 17, by striking "6" and inserting "10, and amendments thereto"; following line 17, by inserting:

"(j) Primary elections for candidates for special district elections shall be held when required by law. Persons shall become qualified to become a candidate in the same manner as provided in subsection (i).";

Also on page 19, in line 39, after "state" by inserting "and county election officers"; in line 40, after "municipal" by inserting "and special district"; in line 41, before "odd-numbered" by inserting "both even-numbered and"; following line 41, by inserting:

"(d) The secretary of state shall utilize the procedures established in this section to the extent applicable for special district elections conducted in the fall of odd-numbered years.";

On page 20, in line 7, by striking "municipal" and inserting "special district"; in line 8, by striking the first comma and inserting "and"; also in line 8, by striking all after "printed"; also in line 9, by striking all before the period and inserting "by the county election officer";

On page 21, in line 9, after "regulations" by inserting "adopted on or before July 1, 2016,"; in line 10, after "names" by inserting "as provided by law"; in line 13, after "all" by inserting "municipal,"; also in line 13, after "the" by inserting "municipal,"; in line 19, after "(b)" by inserting "Except as provided in subsection (e).";

On page 23, in line 7, after "(e)" by inserting "The secretary of state by rules and regulations adopted on or before July 1, 2016, shall develop the official primary election ballot to place all municipal primary elections at the top of the ballot.

(f)";

Also on page 23, in line 8, by striking "municipal" and inserting "special district"; in line 42, after "(b)" by inserting "The secretary of state by rules and regulations adopted on or before July 1, 2016, shall develop the official general election ballot to place all municipal elections at the top of the ballot.

(c)";

On page 24, in line 1, by striking "municipalities" and inserting "special districts"; also in line 1, after "regulations" by inserting "adopted on or before July 1, 2016"; in line 4, after the first "for" by inserting "municipal,"; in line 5, after the second "the" by inserting "municipal offices followed by the"; in line 19, after "(c)" by inserting "The secretary of state by rules and regulations adopted on or before July 1, 2016, shall develop the order of arrangement of municipal offices on the general election ballot.

(d)";

Also on page 24, in line 20, by striking "municipalities" and inserting "special districts and cities, if needed,"; in line 21, after "regulations" by inserting "adopted on or before July 1, 2016";

On page 25, in line 18, after "general" by inserting "election"; also in line 18, after "ballot" by inserting "style"; in line 19, after "regulations" by inserting "adopted on or before July 1, 2016"; following line 19, by inserting:

"(c) The official general election ballot style for special districts shall be established by rules and regulations adopted on or before July 1, 2016.";

On page 29, in line 27, by striking "odd-numbered" and inserting "even-numbered"; in line 31, by striking "following the first Monday"; in line 32, by striking "odd-numbered" and inserting "even-numbered";

On page 30, in line 19, by striking "odd-"; in line 20, by striking "numbered" and inserting "even-numbered"; in line 22, by striking "odd-numbered" and inserting "even-numbered"; following line 30, by inserting:

"Sec. 39. K.S.A. 25-2017a is hereby amended to read as follows: 25-2017a. The clerk of the board of education of every school district shall certify to the county election officer of the home county of the school district a list of all school offices to be voted upon at each school election, any boundary changes of member districts since the last preceding election and the voting plan to be used as defined in K.S.A. 25-2005, and amendments thereto, not later than ~~January~~ May 1 of each ~~odd-numbered even-numbered~~ year. A copy of the above information shall be furnished to the county election officer of every county in which a part of the territory of the school district is located.";

Also on page 30, in line 34, by striking all after "(b)"; in line 35, by striking all before "the" and inserting "On or before June 10 of even-numbered years,";

On page 31, in line 4, by striking all after "(d)"; by striking all in line 5; in line 6, by striking "thereto," and inserting "On or before June 10 of each even-numbered year,"; in line 15, by striking all after "(e)"; by striking all in line 16; in line 17, by striking "thereto," and inserting "On or before September 1 of each even-numbered year,";

On page 34, by striking all in lines 1 through 3; in line 4, by striking all before the period; in line 23, after "each" by inserting "even-numbered and"; in line 24, after "year" by inserting ", if needed,"; in line 30, after "each" by inserting "even-numbered and"; in line 31, after "year" by inserting ", if needed";

On page 37, in line 4, before "as" by inserting "in the various possible orders in rotation and"; following line 5, by inserting:

"Sec. 51. K.S.A. 25-2118 is hereby amended to read as follows: 25-2118. The city clerk shall certify to the county election officer a list of all city offices to be voted upon at each city election not later than ~~January~~ May 1 of every year that such city has a city election.";

On page 40, by striking all in lines 34 through 43;

On page 41, by striking all in lines 1 through 25;

On page 44, in line 36, by striking "6" and inserting "10";

On page 48, in line 19, by striking "6" and inserting "10"; in line 39, by striking "even-numbered" and inserting "odd-numbered"; in line 40, by striking "odd-numbered" and inserting "even-numbered";

On page 49, in line 18, by striking "odd-numbered" and inserting "even-numbered";

On page 51, by striking all in lines 9 through 43;

By striking all on pages 52 through 60;

On page 61, by striking all in lines 1 through 36;

On page 63, in line 14, by striking "1" and inserting "66";

On page 64, in line 4, by striking "1" and inserting "66"; in line 5, by striking "10-120, 12-138,"; also in line 5, by striking "12-6a15,"; in line 13, after "12-1038," by inserting "13-1220,"; also in line 13, by striking "19-117,"; in line 15, after "25-2017," by inserting "25-2017a,"; in line 16, after "25-2115," by inserting "25-2118,"; in line 17, by striking "68-438"; in line 19, by striking ", 12-1737, 19-15,116,"; in line 21, by striking ", 25-3801"; also in line 21, by striking the fourth comma and inserting "and"; also in line 21, by striking "and 72-6433";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, by striking "10-120,;" in line 3, by striking "12-138,;" also in line 3, by striking ", 12-6a15"; also in line 3, before "13-1221," by inserting "13-1220,;" also in line 3, by striking "19-117,;" in line 4, by striking "25-204,;" in line 5, after "25-2017," by inserting "25-2017a,;" in line 6, after "25-2115," by inserting "25-2118,;" in line 7, by striking "68-438,;" in line 9, by striking "12-1737, 19-15,116,;" in line 11, by striking ", 25-3801"; also in line 11, by striking the third comma and inserting "and"; also in line 11, by striking "and 72-6433"; and the bill be passed as amended.

Committee on **Energy and Environment** recommends **HB 2233** be amended by adoption of the amendments recommended by the House Committee on Energy and Environment as reported in the Journal of the House of Representatives on February 25, 2015, and the bill, as printed with amendments by House Committee, be further amended:

On page 4, in line 16, by striking "shall" and inserting "may"; also in line 16, by striking "upon submission of the state plan" and inserting "of the time limit for submitting a state plan, as necessary"; in line 24, after "secretary" by inserting "and the state corporation commission"; also in line 24, by striking all after "submit"; by striking all in lines 25 through 41; also in line 42, by striking "submitted" and inserting "to the senate committee on utilities and the house committee on energy and environment:

(1) A plan to investigate, review and develop a state plan no later than November 1, 2015; and

(2) information on any final rule adopted by the environmental protection agency under docket EPA-HQ-OAR-2013-0602 no later than February 1, 2016.

(g) The secretary shall present any proposed interim or final state plan proposed for submission to the environmental protection agency to a joint meeting of the senate committee on utilities and the house committee on energy and environment, or an alternate joint committee designated by the legislative coordinating council if the legislature is not in session, for review and input prior to submission of such a plan to the environmental protection agency or any other federal agency. This meeting shall take place at least 45 days prior to the planned submission and the committee shall provide comments to the secretary within 15 days after the meeting. In the event a final rule is not issued by the environmental protection agency pursuant to docket EPA-HQ-OAR-2013-0602, or the issuance of a final rule is delayed, the secretary shall notify the appropriate chairs of the legislative committees";

Also on page 4, in line 43, by striking "approval" and inserting "review";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly; and the bill be passed as amended.

Committee on **Federal and State Affairs** recommends **HCR 5010** be adopted.

Committee on **Health and Human Services** recommends **SB 142** be passed.

Committee on **Insurance** recommends **SB 54** be amended by substituting a new bill to be designated as "House Substitute for SENATE BILL NO. 54," as follows:

"House Substitute for SENATE BILL NO. 54

By Committee on Insurance

"AN ACT concerning the Kansas highway patrol; relating to state employee health plan continuation; pertaining to certain retirees; duties of superintendent of the Kansas highway patrol and the secretary of health and environment; amending K.S.A. 75-6511 and repealing the existing section."; and the substitute bill be passed.

(H Sub for SB 54 was thereupon introduced and read by title.)

Committee on **Insurance** recommends **SB 101** be amended on page 5, following line 3, by inserting:

"(y) "Health care facility" means a nursing facility, an assisted living facility or a residential health care facility as all such terms are defined in K.S.A. 39-923, and amendments thereto.

Sec. 2. K.S.A. 2014 Supp. 40-3414 is hereby amended to read as follows: 40-3414. (a) Any health care provider, or any health care system organized and existing under the laws of this state which owns and operates ~~two or more~~ than one medical care ~~facilities~~ facility or more than one health care facility, as defined in K.S.A. 40-3401, and amendments thereto, licensed by the state of Kansas, whose aggregate annual insurance premium is or would be \$100,000 or more for basic coverage calculated in accordance with rating procedures approved by the commissioner pursuant to K.S.A. 40-3413, and amendments thereto, may qualify as a self-insurer by obtaining a certificate of self-insurance from the board of governors. Upon application of any such health care provider or health care system, on a form prescribed by the board of governors, the board of governors may issue a certificate of self-insurance if the board of governors is satisfied that the applicant is possessed and will continue to be possessed of ability to pay any judgment for which liability exists equal to the amount of basic coverage required of a health care provider obtained against such applicant arising from the applicant's rendering of professional services as a health care provider. In making such determination the board of governors shall consider: (1) The financial condition of the applicant; (2) the procedures adopted and followed by the applicant to process and handle claims and potential claims; (3) the amount and liquidity of assets reserved for the settlement of claims or potential claims; and (4) any other relevant factors. The certificate of self-insurance may contain reasonable conditions prescribed by the board of governors. Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the board of governors may cancel a certificate of self-insurance upon reasonable grounds therefor. Failure to pay any judgment for which the self-insurer is liable arising from the self-insurer's rendering of professional services as a health care provider, the failure to comply with any provision of this act or the failure to comply with any conditions contained in the certificate of self-insurance shall be reasonable grounds for the cancellation of such certificate of self-insurance. The provisions of this subsection shall not apply to the Kansas soldiers' home, the Kansas veterans' home or to any person who is a self-insurer pursuant to subsection (d) or (e).

(b) Any such health care provider or health care system that holds a certificate of self-insurance shall pay the applicable surcharge set forth in ~~subsection (e) of~~ K.S.A. 40-3402(c), and amendments thereto.

(c) The Kansas soldiers' home and the Kansas veterans' home shall be self-insurers and shall pay the applicable surcharge set forth in ~~subsection (e) of~~ K.S.A. 40-3402(c), and amendments thereto.

(d) Persons engaged in residency training as provided in ~~subsections (r)(1) and (2) of~~ K.S.A. 40-3401(r)(1) and (2), and amendments thereto, shall be self-insured by the state of Kansas for occurrences arising during such training, and such person shall be deemed a self-insurer for the purposes of the health care provider insurance availability act. Such self-insurance shall be applicable to a person engaged in residency training only when such person is engaged in medical activities which do not include

extracurricular, extra-institutional medical service for which such person receives extra compensation and which have not been approved as provided in ~~subsections (r)(1) and (2)~~ of K.S.A. 40-3401 (r)(1) and (2), and amendments thereto.

(e) (1) A person engaged in a postgraduate training program approved by the state board of healing arts at a medical care facility or mental health center in this state may be self-insured by such medical care facility or mental health center in accordance with this subsection (e) and in accordance with such terms and conditions of eligibility therefor as may be specified by the medical care facility or mental health center and approved by the board of governors. A person self-insured under this subsection (e) by a medical care facility or mental health center shall be deemed a self-insurer for purposes of the health care provider insurance availability act. Upon application by a medical care facility or mental health center, on a form prescribed by the board of governors, the board of governors may authorize such medical care facility or mental health center to self-insure persons engaged in postgraduate training programs approved by the state board of healing arts at such medical care facility or mental health center if the board of governors is satisfied that the medical care facility or mental health center is possessed and will continue to be possessed of ability to pay any judgment for which liability exists equal to the amount of basic coverage required of a health care provider obtained against a person engaged in such a postgraduate training program and arising from such person's rendering of or failure to render professional services as a health care provider.

(2) In making such determination the board of governors shall consider: (A) The financial condition of the medical care facility or mental health center; (B) the procedures adopted by the medical care facility or mental health center to process and handle claims and potential claims; (C) the amount and liquidity of assets reserved for the settlement of claims or potential claims by the medical care facility or mental health center; and (D) any other factors the board of governors deems relevant. The board of governors may specify such conditions for the approval of an application as the board of governors deems necessary. Upon approval of an application, the board of governors shall issue a certificate of self-insurance to each person engaged in such postgraduate training program at the medical care facility or mental health center who is self-insured by such medical care facility or mental health center.

(3) Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the board of governors may cancel, upon reasonable grounds therefor, a certificate of self-insurance issued pursuant to this subsection (e) or the authority of a medical care facility or mental health center to self-insure persons engaged in such postgraduate training programs at the medical care facility or mental health center. Failure of a person engaged in such postgraduate training program to comply with the terms and conditions of eligibility to be self-insured by the medical care facility or mental health center, the failure of a medical care facility or mental health center to pay any judgment for which such medical care facility or mental health center is liable as self-insurer of such person, the failure to comply with any provisions of the health care provider insurance availability act or the failure to comply with any conditions for approval of the application or any conditions contained in the certificate of self-insurance shall be reasonable grounds for cancellation of such certificate of self-insurance or the authority of a medical care facility or mental health center to self-insure such persons.

(4) A medical care facility or mental health center authorized to self-insure persons

engaged in such postgraduate training programs shall pay the applicable surcharge set forth in ~~subsection (e)~~ of K.S.A. 40-3402(c), and amendments thereto, on behalf of such persons.

(5) As used in this subsection (e), "medical care facility" does not include the university of Kansas medical center or those community hospitals or medical care facilities described in ~~subsection (r)(2)~~ of K.S.A. 40-3401(r)(2), and amendments thereto.

(f) For the purposes of subsection (a), "health care provider" may include each health care provider in any group of health care providers who practice as a group to provide physician services only for a health maintenance organization, any professional corporations, partnerships or not-for-profit corporations formed by such group and the health maintenance organization itself. The premiums for each such provider, health maintenance organization and group corporation or partnership may be aggregated for the purpose of being eligible for and subject to the statutory requirements for self-insurance as set forth in this section.

(g) The provisions of subsections (a) and (f), relating to health care systems, shall not affect the responsibility of individual health care providers as defined in ~~subsection (f)~~ of K.S.A. 40-3401(f), and amendments thereto, or organizations whose premiums are aggregated for purposes of being eligible for self-insurance from individually meeting the requirements imposed by K.S.A. 40-3402, and amendments thereto, with respect to the ability to respond to injury or damages to the extent specified therein and K.S.A. 40-3404, and amendments thereto, with respect to the payment of the health care stabilization fund surcharge.

(h) Each private practice corporation or foundation and their full-time physician faculty employed by the university of Kansas medical center and each nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall be deemed a self-insurer for the purposes of the health care provider insurance availability act. The private practice corporation or foundation of which the full-time physician faculty is a member and each nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall pay the applicable surcharge set forth in ~~subsection (a)~~ of K.S.A. 40-3404(a), and amendments thereto, on behalf of the private practice corporation or foundation and their full-time physician faculty employed by the university of Kansas medical center or on behalf of a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine.

(i) (1) Subject to the provisions of paragraph (4), for the purposes of the health care provider insurance availability act, each nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall be deemed to have been a health care provider as defined in K.S.A. 40-3401, and amendments thereto, from and after July 1, 1997.

(2) Subject to the provisions of paragraph (4), for the purposes of the health care provider insurance availability act, each nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care

facilities affiliated with the university of Kansas school of medicine shall be deemed to have been a self-insurer within the meaning of subsection (h) ~~of this section~~, and amendments thereto, from and after July 1, 1997.

(3) Subject to the provisions of paragraph (4), for the purposes of the health care provider insurance availability act, the election of fund coverage limits for each nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall be deemed to have been effective at the highest option, as provided in ~~subsection (f)~~ of K.S.A. 40-3403(l), and amendments thereto, from and after July 1, 1997.

(4) No nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall be required to pay to the fund any annual premium surcharge for any period prior to the effective date of this act. Any annual premium surcharge for the period commencing on the effective date of this act and ending on June 30, 2001, shall be prorated.";

Also on page 5, in line 4, by striking "is" and inserting "and 40-3414 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the second semicolon by inserting "self-insurance; health care systems;"; in line 3, after "3401" by inserting "and 40-3414"; also in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Judiciary** recommends **SB 214** be passed.

Committee on **Judiciary** recommends **SB 184** be amended on page 2, following line 17, by inserting:

"Sec. 2. K.S.A. 2014 Supp. 75-719 is hereby amended to read as follows: 75-719.

(a) ~~The attorney general~~ judicial administrator is authorized to enter into contracts in accordance with this section for collection services for debts owed to courts or restitution owed under an order of restitution. On and after July 1, 1999, the cost of collection shall be paid by the defendant as an additional court cost in all criminal, traffic and juvenile offender cases where the defendant fails to pay any amount ordered by the court and the court utilizes the services of a contracting agent pursuant to this section. The cost of collection shall be deemed an administrative fee to pay the actual costs of collection made necessary by the defendant's failure to pay court debt and restitution.

(b) As used in this section:

(1) "Beneficiary under an order of restitution" means the victim or victims of a crime to whom a district court has ordered restitution be paid;

(2) "contracting agent" means a person, firm, agency or other entity who contracts hereunder to provide collection services;

(3) "cost of collection" means the fee specified in contracts hereunder to be paid to or retained by a contracting agent for collection services. Cost of collection also includes any filing fee required under K.S.A. 60-4303, and amendments thereto, or administrative costs prescribed by ~~the attorney general pursuant to rules and regulations~~ rules of the supreme court; and

(4) "debts owed to courts" means any assessment of court costs, fines, fees, moneys expended by the state in providing counsel and other defense services to indigent



defendants or other charges which a district court judgment has ordered to be paid to the court, and which remain unpaid in whole or in part, and includes any interest or penalties on such unpaid amounts as provided for in the judgment or by law. "Debts owed to courts" also includes: (A) The cost of collection when collection services of a contracting agent hereunder are utilized; and (B) court costs, fines, fees or other charges arising from failure to comply with a traffic citation within 30 days from the date of the mailing of the notice pursuant to K.S.A. 8-2110(b)(1), and amendments thereto.

(c) (1) Contracts authorized by this section may be entered into with state or federal agencies or political subdivisions of the state of Kansas, including contracts for participation in the collection program authorized by K.S.A. 75-6201 et seq., and amendments thereto. Such contracts also may be entered into with private firms or individuals selected by a procurement negotiation committee in accordance with K.S.A. 75-37,102, and amendments thereto, except that the ~~attorney general~~ judicial administrator shall designate a representative to serve as the chief administrative officer member of such committee and that the other two members of such committee shall be designated by the director of purchases and the judicial administrator.

(2) Prior to negotiating any contract for collection services, this procurement negotiation committee shall advertise for proposals, negotiate with firms and individuals submitting proposals and select among those submitting such proposals the party or parties to contract with for the purpose of collection services.

(3) The ~~attorney general~~ supreme court may adopt rules ~~and regulations~~ as deemed appropriate for the administration of this section, including procedures to be used in the negotiation and execution of contracts pursuant to this section and procedures to be followed by those who utilize collection services under such contracts.

(4) For purposes of this section, the agencies, firms or individuals with whom contracts are entered under this section shall be known as contracting agents. The ~~attorney general~~ judicial administrator shall publish a list of the contracting agents for use by courts or beneficiaries under orders of restitution who desire to utilize the collection services of such agents.

(5) Each contract entered pursuant to this section shall provide for a fee to be paid to or retained by the contracting agent for collection services. Such fee shall be designated as the cost of collection hereunder, and shall not exceed 33% of the amount collected. The cost of collection shall be paid from the amount collected, but shall not be deducted from the debts owed to courts or restitution. If a contracting agent uses the debt setoff procedures pursuant to K.S.A. 75-6202 et seq., and amendments thereto, to recover debts owed to the courts, the contracting agent's cost of collection for debt recovered through that program shall be the amount established by contract minus the collection assistance fee imposed by the director of accounts and reports of the department of administration pursuant to K.S.A. 75-6210, and amendments thereto.

(d) Judicial districts of the state of Kansas are authorized to utilize the collection services of contracting agents pursuant to this section for the purpose of collecting all outstanding debts owed to courts. Subject to rules and orders of the Kansas supreme court, each judicial district may establish by local rule guidelines for the compromise of court costs, fines, attorney fees and other charges assessed in district court cases.

(e) Any beneficiary under an order of restitution entered by a court after this section takes effect is authorized to utilize the collection services of contracting agents pursuant to this section for the purpose of collecting all outstanding amounts owed

under such order of restitution.

(f) Contracts entered hereunder shall provide for the payment of any amounts collected to the clerk of the district court for the court in which the debt being collected originated, after first deducting the collection fee. In accounting for amounts collected from any person pursuant to this section, the district court clerk shall credit the person's amount owed in the amount of the net proceeds collected and shall not reduce the amount owed by any person by that portion of any payment which constitutes the cost of collection pursuant to this section.

(g) With the appropriate cost of collection paid to the contracting agent as agreed upon in the contract hereunder, the clerk shall then distribute amounts collected hereunder as follows:

(1) When collection services are utilized pursuant to subsection (d), all amounts shall be applied against the debts owed to the court as specified in the original judgment creating the debt;

(2) when collection services are utilized pursuant to subsection (e), all amounts shall be paid to the beneficiary under the order of restitution designated to receive such restitution, except where that beneficiary has received recovery from the Kansas crime victims compensation board and such board has subrogation rights pursuant to K.S.A. 74-7312, and amendments thereto, in which case all amounts shall be paid to the board until its subrogation lien is satisfied.

(h) Whenever collection services are being utilized against the same debtor pursuant to both subsections (d) and (e), any amounts collected by a contracting agent shall be first applied to satisfy subsection (e) debts, debts pursuant to an order of restitution. Upon satisfaction of all such debts, amounts received from the same debtor shall then be applied to satisfy subsection (d) debts, debts owed to courts.

Sec. 3. K.S.A. 2014 Supp. 75-6202 is hereby amended to read as follows: 75-6202. As used in this act:

(a) "Debtor" means any person who:

(1) Owes a debt to the state of Kansas or any state agency or any municipality;

(2) owes support to an individual, or an agency of another state, who is receiving assistance in collecting that support under K.S.A. 39-756 or K.S.A. 2014 Supp. 20-378, and amendments thereto, or under part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., as amended; or

(3) owes a debt to a foreign state agency.

(b) "Debt" means:

(1) Any liquidated sum due and owing to the state of Kansas, or any state agency, municipality or foreign state agency which has accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum. A debt shall not include special assessments except when the owner of the property assessed petitioned for the improvement and any successor in interest of such owner of property; ~~or~~

(2) any amount of support due and owing an individual, or an agency of another state, who is receiving assistance in collecting that support under K.S.A. 39-756 or K.S.A. 2014 Supp. 20-378, and amendments thereto, or under part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., as amended, which amount shall be considered a debt due and owing the district court trustee or the Kansas department for children and families for the purposes of this act; or

(3) any assessment of court costs, fines, fees, moneys expended by the state in providing counsel and other defense services to indigent defendants or other charges which a district court judgment has ordered to be paid to the court and which remain unpaid in whole or in part, and includes any interest or penalties on such unpaid amounts as provided for in the judgment or by law. Such amount also includes the cost of collection when the collection services of a contracting agent are utilized.

(c) "Refund" means any amount of ~~Kansas~~ income tax refund due to any person as a result of an overpayment of tax, and for this purpose, a refund due to a husband and wife resulting from a joint return shall be considered to be separately owned by each individual in the proportion of each such spouse's contribution to income, as the term "contribution to income" is defined by rules and regulations of the secretary of revenue.

(d) "Net proceeds collected" means gross proceeds collected through final setoff against a debtor's earnings, refund or other payment due from the state or any state agency minus any collection assistance fee charged by the director of accounts and reports of the department of administration.

(e) "State agency" means any state office, officer, department, board, commission, institution, bureau, agency or authority or any division or unit thereof and any judicial district of this state or the clerk or clerks thereof. "State agency" also shall include any: (1) District court utilizing collection services pursuant to K.S.A. 75-719, and amendments thereto, to collect debts owed to such court; and (2) contracting agent, as defined in K.S.A. 75-719, and amendments thereto, with which a district court contracts to collect debts owed to such court. Such contracting agent may directly establish a debt setoff account with the director for the sole purpose of collecting debts owed to courts.

(f) "Person" means an individual, proprietorship, partnership, limited partnership, association, trust, estate, business trust, corporation, other entity or a governmental agency, unit or subdivision.

(g) "Director" means the director of accounts and reports of the department of administration.

(h) "Municipality" means any municipality as defined by K.S.A. 75-1117, and amendments thereto.

(i) "Payor agency" means any state agency which holds money for, or owes money to, a debtor.

(j) "Foreign state or foreign state agency" means the states of Colorado, Missouri, Nebraska or Oklahoma or any agency of such states which has entered into a reciprocal agreement pursuant to K.S.A. 75-6215, and amendments thereto.

Sec. 4. K.S.A. 2014 Supp. 75-6204 is hereby amended to read as follows: 75-6204. (a) Subject to the limitations provided in this act, if a debtor fails to pay to the state of Kansas or any state agency, foreign state agency, municipality or the federal department of the treasury an amount owed, the director may setoff such amount and a reasonable collection assistance fee determined in accordance with K.S.A. 75-6210, and amendments thereto, against any money held for, or any money owed to, such debtor by the state or any state agency.

(b) The director may enter into an agreement with a municipality for participation in the setoff program for the purpose of assisting in the collection of a debt as defined by K.S.A. 75-6202, and amendments thereto. The director shall include in any such agreement a provision requiring the municipality to certify that the municipality has made at least three attempts to collect a debt prior to submitting such debt to setoff

pursuant to this act.

(c) (1) Except as provided in subsection (c)(2), the director shall add the cost of collection and the debt for a total amount subject to setoff against a debtor.

(2) Any debts due and owing to an individual, the state of Kansas or an agency of another state that are being enforced by the Kansas department for children and families under part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., as amended, shall not have the cost of collection added to the debt owed and subject to setoff. Such cost of collection shall be paid by the Kansas department for children and families.

Sec. 5. K.S.A. 75-6209 is hereby amended to read as follows: 75-6209. (a) In accordance with the applicable times under K.S.A. 75-6208 and amendments thereto, the director shall complete the setoff by adding and retaining the collection assistance fee permitted by K.S.A. 75-6210, and amendments thereto, and transferring the net proceeds collected for credit or payment and by refunding any outstanding balance to the debtor.

(b) Upon completing the setoff, the director shall notify the debtor in writing of the action taken along with an accounting of the action taken. If there is an outstanding balance after setoff, the notice under this section shall accompany the balance when refunded.

(c) When a setoff is completed against earnings of an employee for any pay period and the setoff does not fully liquidate the debt due, further setoff in subsequent pay periods may be made without further certifications or notice to the debtor, except that the director shall notify the debtor in writing of the action taken and give an accounting thereof. The debtor may request an opportunity for hearing in regard to any further setoff in subsequent pay periods by making a written request therefor to the director. Any such request shall not stay future setoffs, but such hearing shall be held within a reasonable time, not to exceed 15 days after the request, unless a longer time has been agreed to by the debtor. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Orders resulting from hearings under this subsection shall not be subject to administrative review.

Sec. 6. K.S.A. 2014 Supp. 75-6210 is hereby amended to read as follows: 75-6210. (a) Upon completion of a setoff transaction, the director shall transfer the net proceeds collected to the account or fund of the state agency, foreign state agency or municipality to which the debt was owed.

(b) (1) From the gross proceeds collected by the director through setoff, the director shall retain a reasonable collection assistance fee in an amount based on cost, as determined by generally accepted cost allocation techniques, except that in the case of transactions for collection of debts arising from the employment security law such fee shall not exceed \$300 for any transaction. Except as provided further, the director shall add the collection assistance fee to the debt after the debt is submitted to the director in accordance with K.S.A. 75-6206, and amendments thereto. Any debts due and owing to an individual, the state of Kansas or an agency of another state that are being enforced by the Kansas department for children and families under part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., as amended, shall not have the collection assistance fee added to the debt owed and subject to setoff, and such fee shall be paid by the Kansas department for children and families.

(2) The director shall retain a reasonable collection assistance fee from the gross proceeds of collections through setoff on behalf of a municipality as specified in an agreement entered into pursuant to K.S.A. 75-6204, and amendments thereto, or foreign state agency in such amount as specified in the reciprocal agreement entered into pursuant to K.S.A. 75-6215, and amendments thereto.

(3) The collection assistance fee shall be paid as an additional cost for all debts owed to the court when the court utilizes debt setoff procedures pursuant to K.S.A. 75-6202 et seq., and amendments thereto. The collection assistance fee shall be retained from the amount collected, but shall not be deducted from the debts owed to the court.

(4) The director may credit a portion of the collection assistance fee to the appropriate account or fund of any other state agency that has incurred expenses in assisting in the collection of the debt.

(5) The amount of the collection assistance fee retained by the director 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 accounting services recovery fund.

(c) Upon receipt by the state agency, foreign state agency or municipality of the net proceeds collected, the state agency, foreign state agency or municipality shall credit the debtor's obligation in the amount of the gross proceeds collected.

(d) Except as otherwise prescribed by the director or the secretary of administration, any state agency, foreign state agency or municipality which receives any payment from a debtor after notification to the debtor under K.S.A. 75-6206, and amendments thereto, other than payments collected pursuant to K.S.A. 44-718, and amendments thereto, or collected through the federal government or judicial process, shall remit the collection assistance fee imposed under subsection (b) to the director which shall be credited to the accounting services recovery fund. If a state agency fails to remit the collection assistance fee as required by this subsection, the director may transfer an amount equal to such collection assistance fee from the appropriate account or fund of the state agency to the accounting services recovery fund. If a foreign state agency or municipality fails to remit the collection assistance fee as required by this subsection, the director may seek collection of such fee in such manner as may be allowed by law.

(e) In cases involving the collection of debts arising from the employment security law, the entire amount collected shall be credited to the employment security fund and the collection assistance fee shall be transferred from the special employment security fund to the accounting services recovery fund.";

Also on page 2, in line 18, before "K.S.A." by inserting "K.S.A. 75-6209 and"; also in line 18, by striking "is" and inserting ", 75-719, 75-6202, 75-6204 and 75-6210 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2, by striking "dormancy" and inserting "courts; relating to court costs, fees, fines and restitution; debts owed to courts"; also in line 2, after "amending" by inserting "K.S.A. 75-6209 and"; also in line 2, after "60-2403" by inserting ", 75-719, 75-6202, 75-6204 and 75-6210"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Upon unanimous consent, the House referred back to the regular business, Introduction of Bills and Concurrent Resolutions.

**INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following bill was introduced and read by title:

**HB 2416**, AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and the Kansas police and firemen's retirement system; calculation of member's benefits; limiting the accumulation of vacation leave for certain employees; amending K.S.A. 75-5517 and K.S.A. 2014 Supp. 74-4902 and 74-4952 and repealing the existing sections, by Committee on Appropriations.

**REPORT ON ENGROSSED BILLS**

**HB 2125, HB 2223, HB 2331** reported correctly engrossed March 18, 2015.

On motion of Rep. Vickrey, the House adjourned until 8:00 a.m., Friday, March 20, 2015.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

