

Journal of the Senate

FORTY-FOURTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 18, 2015, 2:30 p.m.

The Senate was called to order by President Susan Wagle.
The roll was called with 39 senators present.
Senator Pettey was excused.
Invocation by Father Don Davidson:

In honor of St. Patrick of Ireland and of the Irish people and their contributions to the fabric of our nation, let us hear and receive this Irish blessing attributed to Bishop Patrick: These things, I warmly wish for you: Someone to love, some work to do, A bit of o' sun, a bit o' cheer. And a guardian angel always near. Amen

The Pledge of Allegiance was led by President Susan Wagle.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 291, AN ACT concerning sales taxation; providing exemption for certain purchases by hope ranch for women inc and contractors providing services thereto; amending K.S.A. 2014 Supp. 79-3606 and repealing the existing section, by Committee on Assessment and Taxation.

SB 292, AN ACT concerning property taxation; relating to final orders of board of tax appeals involving appeals by lottery gaming enterprises; limiting review thereof; amending K.S.A. 2014 Supp. 74-2426 and repealing the existing section, by Committee on Ways and Means.

SB 293, AN ACT authorizing the conveyance of certain real property; authorizing the state board of regents to convey to the city of Pittsburg certain real property owned by the board of regents in exchange for certain property owned by the city of Pittsburg, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Corrections and Juvenile Justice: **SB 290**.

Financial Institutions and Insurance: **SB 289**.

Transportation: **SB 288**.

REFERENCE OF APPOINTMENTS

The following appointments made by the Governor and submitted to the Senate for confirmation, were referred to Committee as indicated:

Member, Kansas State Banking Board:

Linda Wessel, to serve Term ends March 15, 2018.
(Financial Institutions and Insurance)

Casey Lair, to serve Term ends March 15, 2018.
(Financial Institutions and Insurance)

General Officer, Kansas Army National Guard:

Colonel Anthony Mohatt, to serve At the pleasure of the governor.
(Federal and State Affairs)

Commander, Kansas Air National Guard:

Colonel Jay Selander, to serve At the pleasure of the governor.
(Federal and State Affairs)

Superintendent, Kansas Highway Patrol:

Major Mark Bruce, to serve At the pleasure of the governor.
(Federal and State Affairs)

Member, Kansas Public Employees Retirement Board of Trustees:

Chris Long, to serve Term ends January 15, 2019.
(Ways and Means)

Secretary, Department of Health and Environment:

Dr. Susan Mosier, to serve At the pleasure of the governor.
(Public Health and Welfare)

CHANGE OF REFERENCE

The President withdrew **HB 2246** from the Committee on **Local Government**, and referred the bill to the Committee on **Judiciary**.

The President withdrew **HB 2258** from the Committee on **Financial Institutions and Insurance**, and referred the bill to the Committee on **Public Health and Welfare**.

The President withdrew **HB 2353** from the Committee on **Education**, and referred the bill to the Committee on **Ways and Means**.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2268**, **HB 2382**.

Announcing passage of **SB 113**, as amended.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2268, **HB 2382** were thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Arpke, Abrams, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, Schmidt, Smith, Tyson, Wagle, Wilborn and Wolf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1726—

A RESOLUTION commending the ministers, pastors, priests and rabbis of Kansas for their leadership and commitment to improving lives.

WHEREAS, There are hosts of ministers, pastors, priests and rabbis serving throughout Kansas; and

WHEREAS, They produce God-honoring and prosperous families that help to nurture the spirits of future generations; and

WHEREAS, They preach and teach in ways that impact and enrich lives – causing many to live in more fulfilling ways; and

WHEREAS, As shepherds, who are to protect, they correct wrongs, reflect justice and seek fairness in organizations, families and government; and

WHEREAS, They provide creative approaches to challenges – resulting in better practices; and

WHEREAS, They pioneer the creation of new programs, policies and services; and

WHEREAS, They help cultivate people's strengths and challenge them to step up and step out in communities: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we commend our ministers, pastors, priests and rabbis for their leadership in villages, counties, cities and our state and their priceless commitment to improving lives. We thank God for each one of them; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to Senator Arpke.

On emergency motion of Senator Arpke **SR 1726** was adopted unanimously.

Guests present included: the Reverends David Buller, Garrett Geesling, Paul Roeth, Cheyenne Oller, Maley Black, Paige Soellner, Tiffany Carroll, Calley Russell, Jimmy Russell, Cordell Fisher, Nate O'Rourke, Greg Rickard, Jana Rea, Ken Ediger, Rachel Ediger, Brian Ma, Dick Unruh, Carol Unruh, Ken Isaac, Dianne Isaac, Caleb May, Sarah May and Ken Harder.

The Senate honored the Pastors with a standing ovation.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HB 2061** be amended on page 3, in line 41, after "resources" by inserting "with conservation easements"; also in line 41, after "for" by inserting "the";

On page 4, in line 7, after "the" by inserting "acquisition and"; also in line 7, by striking "compensatory"; in line 8, by striking all before the comma and inserting "conservation easements"; in line 9, by striking all after "the"; in line 10, by striking all before the first comma and inserting "terms of the conservation easement are met";

Also on page 4, following line 23, by inserting:

"(h) All costs associated with compensatory mitigation, including, but not limited to, the costs of any litigation or civil fines or penalties, shall be paid by the watershed district for which the Kansas department of agriculture division of conservation holds the conservation easement.

(i) (1) Except as provided in subsection (i)(2), the Kansas department of agriculture shall not expend moneys appropriated from the state general fund or from any special revenue fund or funds for the purpose of accepting, purchasing or otherwise acquiring

conservation easements.

(2) The Kansas department of agriculture may expend moneys in the conservation fund established by this section for the purpose of accepting, purchasing or otherwise acquiring conservation easements.

(j) The Kansas department of agriculture division of conservation shall not accept, purchase or otherwise acquire any conservation easement other than for the purposes of this section."; and the bill be passed as amended.

Committee on **Assessment and Taxation** recommends **SB 280** be amended on page 9, following line 17, by inserting:

"(30) The board of county commissioners of Bourbon county may submit the question of imposing a countywide retailers' sales tax at the rate of up to 1% and pledging the revenue received therefrom for the purpose of financing the costs of constructing, furnishing and operating a law enforcement center or jail facility or both to the electors at an election called and held thereon.";

On page 13, in line 31, by striking "and"; in line 34, after "1.5%" by inserting "; and

(dd) the board of county commissioners of Bourbon county, for the purposes of K.S.A. 12-187(b)(30), and amendments thereto, may fix such rate at up to 2%";

On page 15, following line 7, by inserting:

"Sec. 3. K.S.A. 2014 Supp. 12-192 is hereby amended to read as follows: 12-192.

(a) Except as otherwise provided by subsection (b), (d) or (h), all revenue received by the director of taxation from a countywide retailers' sales tax shall be apportioned among the county and each city located in such county in the following manner: (1) One-half of all revenue received by the director of taxation shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year; and (2) one-half of all revenue received by the director of taxation from such countywide retailers' sales tax shall be apportioned among the county and each city located in such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county, except that no persons residing within the Fort Riley military reservation shall be included in the determination of the population of any city located within Riley county. All revenue apportioned to a county shall be paid to its county treasurer and shall be credited to the general fund of the county.

(b) (1) In lieu of the apportionment formula provided in subsection (a), all revenue received by the director of taxation from a countywide retailers' sales tax imposed within Johnson county at the rate of 0.75%, 1% or 1.25% after July 1, 2007, shall be apportioned among the county and each city located in such county in the following manner: (A) The revenue received from the first 0.5% rate of tax shall be apportioned in the manner prescribed by subsection (a); and (B) the revenue received from the rate of tax exceeding 0.5% shall be apportioned as follows: (i) One-fourth shall be apportioned among the county and each city located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit bear to the total of all such levies made in the preceding year; (ii) one-fourth shall be apportioned among the county and each city located in

such county, first to the county that portion of the revenue equal to the proportion that the population of the county residing in the unincorporated area of the county bears to the total population of the county, and second to the cities in the proportion that the population of each city bears to the total population of the county; and (iii) one-half shall be retained by the county for its sole use and benefit.

(2) In lieu of the apportionment formula provided in subsection (a), all money received by the director of taxation from a countywide sales tax imposed within Montgomery county pursuant to the election held on November 8, 1994, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged. All revenue apportioned and paid from the imposition of such tax to the treasurer of any city prior to the effective date of this act shall be remitted to the county treasurer and expended only for the purpose for which the revenue received from the tax was pledged.

(3) In lieu of the apportionment formula provided in subsection (a), on and after the effective date of this act, all moneys received by the director of taxation from a countywide retailers' sales tax imposed within Phillips county pursuant to the election held on September 20, 2005, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(c) (1) Except as otherwise provided by paragraph (2) of this subsection, for purposes of subsections (a) and (b), the term "total tangible property tax levies" means the aggregate dollar amount of tax revenue derived from ad valorem tax levies applicable to all tangible property located within each such city or county. The ad valorem property tax levy of any county or city district entity or subdivision shall be included within this term if the levy of any such district entity or subdivision is applicable to all tangible property located within each such city or county.

(2) For the purposes of subsections (a) and (b), any ad valorem property tax levied on property located in a city in Johnson county for the purpose of providing fire protection service in such city shall be included within the term "total tangible property tax levies" for such city regardless of its applicability to all tangible property located within each such city. If the tax is levied by a district which extends across city boundaries, for purposes of this computation, the amount of such levy shall be apportioned among each city in which such district extends in the proportion that such tax levied within each city bears to the total tax levied by the district.

(d) (1) All revenue received from a countywide retailers' sales tax imposed pursuant to ~~paragraphs (2), (3)(C), (3)(F), (6), (7), (8), (9), (12), (14), (15), (16), (17), (18), (19), (20), (22), (23), (25), (27), (28) and (29) of subsection (b) of K.S.A. 12-187(b)(2), (3)(C), (3)(F), (6), (7), (8), (9), (12), (14), (15), (16), (17), (18), (19), (20), (22), (23), (25), (27), (28), (29) and (30),~~ and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(2) Except as otherwise provided in ~~paragraph (5) of subsection (b) of K.S.A. 12-187(b)(5),~~ and amendments thereto, all revenues received from a countywide retailers' sales tax imposed pursuant to ~~paragraph (5) of subsection (b) of K.S.A. 12-187(b)(5),~~ and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged.

(3) All revenue received from a countywide retailers' sales tax imposed pursuant to ~~paragraph (26) of subsection (b) of K.S.A. 12-187(b)(26)~~, and amendments thereto, shall be remitted to and shall be retained by the county and expended only for the purpose for which the revenue received from the tax was pledged unless the question of imposing a countywide retailers' sales tax authorized by ~~paragraph (26) of subsection (b) of K.S.A. 12-187(b)(26)~~, and amendments thereto, includes the apportionment of revenue prescribed in subsection (a).

(e) All revenue apportioned to the several cities of the county shall be paid to the respective treasurers thereof and deposited in the general fund of the city. Whenever the territory of any city is located in two or more counties and any one or more of such counties do not levy a countywide retailers' sales tax, or whenever such counties do not levy countywide retailers' sales taxes at a uniform rate, the revenue received by such city from the proceeds of the countywide retailers' sales tax, as an alternative to depositing the same in the general fund, may be used for the purpose of reducing the tax levies of such city upon the taxable tangible property located within the county levying such countywide retailers' sales tax.

(f) Prior to March 1 of each year, the secretary of revenue shall advise each county treasurer of the revenue collected in such county from the state retailers' sales tax for the preceding calendar year.

(g) Prior to December 31 of each year, the clerk of every county imposing a countywide retailers' sales tax shall provide such information deemed necessary by the secretary of revenue to apportion and remit revenue to the counties and cities pursuant to this section.

(h) The provisions of subsections (a) and (b) for the apportionment of countywide retailers' sales tax shall not apply to any revenues received pursuant to a county or countywide retailers' sales tax levied or collected under K.S.A. 74-8929, and amendments thereto. All such revenue collected under K.S.A. 74-8929, and amendments thereto, shall be deposited into the redevelopment bond fund established by K.S.A. 74-8927, and amendments thereto, for the period of time set forth in K.S.A. 74-8927, and amendments thereto.;

Also on page 15, in line 8, by striking "and" and inserting a comma; also in line 8, after "12-189" by inserting "and 12-192";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "county" by inserting "and Bourbon county"; in line 3, by striking the first "and" and inserting a comma; also in line 3, after "12-189" by inserting "and 12-192"; and the bill be passed as amended.

Committee on **Ethics and Elections** recommends **SB 239** be passed.

Committee on **Federal and State Affairs** recommends **SB 65**, **SB 224**, **SB 267** be passed.

Also, **HB 2154**, as amended by House Committee of the Whole, be amended on page 1, following line 19, by inserting:

"Sec. 2. K.S.A. 48-517 is hereby amended to read as follows: 48-517. (a) Any person employed in the state of Kansas who is called or ordered to state active duty by ~~the this state, or any other state~~, whether such person is a member of the Kansas army national guard, Kansas air national guard, the Kansas state guard or other military force of this state, or any other state, and who gave notice thereof to the person's employer, upon satisfactory performance of and release and return from such military duty or

recovery from disease or injury resulting ~~therefrom~~ from such military duty, under honorable conditions, shall be reinstated in or restored to the position of employment, except a temporary position, which the person held at the time the person was called to state active duty. The person shall report to the person's place of employment within 72 hours after release from duty or recovery from disease or injury resulting ~~therefrom~~ from such military duty, as the case may be, and the person's employer or the employer's successor in interest, whether an agency of the state, a political subdivision of the state or a private employer, shall reinstate or restore the person in the same position which the person left at the time of the person's call to duty at no less compensation than that which the person was receiving at the time of the person's call to duty or to a position of like seniority, status and pay. However, if the person is not qualified to perform the duties of the same position by reason of disability sustained during the person's call to duty but is qualified to perform another position in the employ of the employer or the employer's successor, the employer or the employer's successor in interest shall employ such person in another position, the duties of which the person is qualified to perform, that will provide like seniority, status and pay or the nearest approximation thereof consistent with the circumstances of the case. Any person called to state active duty shall receive, upon release ~~under honorable conditions~~ from state active duty, documentation of honorable such person's service to the this state or any other state, as provided by the adjutant general in a memorandum certified by such person's commanding officer.

(b) Any person who is restored to the person's position in accordance with the provisions of subsection (a) shall be considered as having been on temporary leave of absence during the period for which the person is called to state active duty, shall be restored without loss of seniority, shall be entitled to participate in any benefits offered by the employer pursuant to established rules and practices relating to employees on leave of absence in effect with the employer at the time the person was called to duty as provided ~~herein in this section~~ and shall not be discharged from the person's position without cause within one year after restoration to the position.

(c) It is understood and declared to be the intent of this section that any person who is restored to a position in accordance with the provisions of subsections (a) and (b) shall be restored in such manner as to give the person such status in the person's employment as the person would have enjoyed if the person had continued in such employment continuously from the time of the person's answering the call to state active duty until the time of the person's restoration to such employment.

(d) An application on behalf of a person claiming to be entitled to any right or benefit under this section may be made to the attorney general. If the attorney general is reasonably satisfied that the person is entitled to the right or benefit sought, the attorney general may appear on behalf of and act as attorney for the person on whose behalf the application is submitted and may commence an action in the district court of the county for appropriate relief for the person. The district court of the county where the employer of a person claiming a right or benefit under this section, or the successor in interest to such employer, maintains a place of business shall have jurisdiction of any action filed by or on behalf of such person. If the court determines that the employer or the employer's successor in interest has failed to comply with the provisions of this section, the court may order the employer or the employer's successor in interest to: (1) Comply with the provisions of this section; and (2) compensate the person for any loss of wages

or benefits suffered by reason of the failure of the employer or employer's successor in interest to comply with the provisions of this section. In addition, the court may order the employer or the employer's successor in interest to pay the person an additional amount equal to the amount authorized by subsection (d)(2) if the court determines that the employer or the employer's successor in interest willfully failed to comply with the provisions of this section. No fees or court costs shall be taxed against any person commencing an action under this subsection. The employer or the employer's successor in interest shall be deemed the only necessary party defendant to any such action.

(e) In any case in which two or more persons who are entitled to be restored to a position under the provisions of this section or of any law relating to similar reemployment or reinstatement benefits left the same position in order to enter ~~the state~~ this state's or any other state's call to active duty, the person who left the position first shall have the prior right to be restored thereto, without prejudice to the reemployment rights of the other person or persons to be restored.

(f) Upon request, the adjutant general shall provide technical assistance to any person claiming to be entitled to any right or benefit under this section during the course of an investigation subsequent to a claim as provided in subsection (d) and, when appropriate, to the employer or employer's successor in interest. The adjutant general shall place an investigating officer on state active duty orders to investigate the person's claim and attempt to resolve the claim by making reasonable efforts to ensure that the employer or employer's successor in interest complies with the provisions of this section. If such efforts are not successful, the adjutant general shall notify the person of the results of the investigation and the person's entitlement to proceed as provided by subsection (d).

(g) (1) An employer or an employer's successor in interest shall not be required to reemploy a person under this section if:

(A) The circumstances of the employer or the employer's successor in interest have so changed as to make reemployment of the person impossible or unreasonable;

(B) reemployment of the person would impose an undue hardship on the employer or the employer's successor in interest; or

(C) the employment from which the person leaves to serve in military duty is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

(2) As used in subsection ~~(f)~~(g)(1), "undue hardship" means actions requiring significant difficulty or expense, when considered in light of:

(A) The nature and cost of the action needed under this act;

(B) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the employer or the employer's successor in interest; the overall size of the business of the employer or the employer's successor in interest with respect to the number of employees; the number, type and location of its facilities; and

(D) the type of operation or operations of the employer or the employer's successor in interest, including the composition, structure and functions of the work force of such employer or successor in interest; the geographic separateness, administrative, or fiscal

relationship of the facility or facilities in question to the employer or successor in interest.

New Sec. 3. (a) (1) A current member of the armed forces of the United States or the member's spouse or dependent child who is enrolled or has been accepted for admission at a postsecondary educational institution as a postsecondary student shall be deemed to be a resident of the state for the purpose of tuition and fees for attendance at such postsecondary educational institution.

(2) A person is entitled to pay tuition and fees at an institution of higher education at the rates provided for Kansas residents without regard to the length of time the person has resided in the state if the person files a letter of intent to establish residence in the state with the postsecondary educational institution at which the person intends to register, lives in the state while attending the postsecondary educational institution and the person is eligible for benefits under the federal post-9/11 veterans educational assistance act of 2008, 38 U.S.C. § 3301 et seq., or any other federal law authorizing educational benefits for veterans.

(b) As used in this section:

(1) "Armed forces" means the army, navy, marine corps, air force, coast guard, Kansas army or air national guard or any branch of the military reserves of the United States;

(2) "Postsecondary educational institution" means the same as provided in K.S.A. 74-3201b, and amendments thereto; and

(3) "Veteran" means a person who has been separated from the armed forces and was honorably discharged or received a general discharge under honorable conditions.

(c) This section shall be part of and supplemental to chapter 48 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 4. K.S.A. 2014 Supp. 76-729 is hereby amended to read as follows: 76-729.

(a) (1) Persons enrolling at the state educational institutions under the control and supervision of the state board of regents who, if such persons are adults, have been domiciliary residents of the state of Kansas or, if such persons are minors, whose parents have been domiciliary residents of the state of Kansas for at least 12 months prior to enrollment for any term or session at a state educational institution are residents for fee purposes. A person who has been a resident of the state of Kansas for fee purposes and who leaves the state of Kansas to become a resident of another state or country shall retain status as a resident of the state of Kansas for fee purposes if the person returns to domiciliary residency in the state of Kansas within 60 months of departure. All other persons are nonresidents of the state of Kansas for fee purposes.

(2) The provisions of this subsection shall be applicable to any person enrolling at a state educational institution from and after July 1, 2006. Any person who (A) qualifies as a resident of the state of Kansas for fee purposes under the provisions of this subsection, (B) attended a state educational institution during academic year 2006-2007, and (C) paid fees as if such person was not a resident of the state of Kansas, may apply to such state educational institution to be reimbursed in an amount equal to the difference between the amount the person paid in fees and the amount the person would have paid if such person had been treated as a resident of the state of Kansas. Such reimbursement shall be paid by the state educational institution at which such person was enrolled during academic year 2006-2007.

(3) The provisions of this subsection shall not apply to a person who is deemed a

resident for fee purposes pursuant to K.S.A. 2014 Supp. 76-731a, and amendments thereto.

(b) The state board of regents may authorize the following persons, or any class or classes thereof, and their spouses and dependents to pay an amount equal to resident fees:

- (1) Persons who are employees of a state educational institution;
 - (2) ~~persons who are in military service;~~
 - (3) ~~persons who are domiciliary residents of the state, who were in active military service prior to becoming domiciliary residents of the state, who were present in the state for a period of not less than two years during their tenure in active military service, whose domiciliary residence was established in the state within 30 days of discharge or retirement from active military service under honorable conditions, but whose domiciliary residence was not timely enough established to meet the residence duration requirement of subsection (a);~~
 - (4) ~~persons having special domestic relations circumstances;~~
 - (5)(3) persons who have lost their resident status within six months of enrollment;
 - (6)(4) persons who are not domiciliary residents of the state, who have graduated from a high school accredited by the state board of education within six months of enrollment, who were domiciliary residents of the state at the time of graduation from high school or within 12 months prior to graduation from high school, and who are entitled to admission at a state educational institution pursuant to K.S.A. 72-116, and amendments thereto;
 - (7)(5) persons who are domiciliary residents of the state, whose domiciliary residence was established in the state for the purpose of accepting, upon recruitment by an employer, or retaining, upon transfer required by an employer, a position of full-time employment at a place of employment in Kansas, but the domiciliary residence of whom was not timely enough established to meet the residence duration requirement of subsection (a), and who are not otherwise eligible for authorization to pay an amount equal to resident fees under this subsection;
 - (8) ~~persons who have graduated from a high school accredited by the state board of education within six months of enrollment and who, at the time of graduation from such a high school or while enrolled and in attendance at such a high school prior to graduation therefrom, were dependents of a person in military service within the state; if the person, whose dependent is eligible for authorization to pay an amount equal to resident fees under this provision, does not establish domiciliary residence in the state upon retirement from military service, eligibility of the dependent for authorization to pay an amount equal to resident fees shall lapse; and~~
 - (9) ~~persons who have retired or have been honorably discharged from military service, had a permanent change of station order for active duty in Kansas during such military service and live in Kansas at the time of enrollment.~~
- (c)(1) ~~The state board of regents shall authorize the following class of persons to pay an amount equal to resident fees: Any dependent or spouse of a person in military service who is reassigned from Kansas to another duty station so long as such dependent or spouse continues to reside in Kansas.~~
- (2) ~~So long as a person remains continuously enrolled, exclusive of summer sessions, a person who qualifies to pay resident fees by virtue of being a spouse or dependent of a person in military service shall not lose such status because of a divorcee~~

~~or the death of a spouse Pursuant to section 1, and amendments thereto, a veteran, an active duty member of the armed forces and the spouse and dependent child of such veteran or active duty member of the armed forces shall be deemed residents of the state for fee purposes.~~

(d) As used in this section:

(1) "Parents" means and includes natural parents, adoptive parents, stepparents, guardians and custodians.

(2) "Guardian" has the meaning ascribed thereto by K.S.A. 59-3051, and amendments thereto.

(3) "Custodian" means a person, agency or association granted legal custody of a minor under the revised Kansas code for care of children.

(4) "Domiciliary resident" means a person who has present and fixed residence in Kansas where the person intends to remain for an indefinite period and to which the person intends to return following absence.

(5) "Full-time employment" means employment requiring at least 1,500 hours of work per year.

(6) "Dependent" means: (A) A birth child, adopted child or stepchild; or

(B) any child other than the foregoing who is actually dependent in whole or in part on the person in military service and who is related to such individual by marriage or consanguinity.

~~(7) "Military service" means: (A) Any active service in any armed service of the United States; or (B) membership in the Kansas army or air national guard.~~

(8) "Academic year" means the twelve-month period ending June 30.

Sec. 5. K.S.A. 48-517 and K.S.A. 2014 Supp. 76-729 are hereby repealed.;

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2 by striking all before the period and inserting "military matters; amending K.S.A. 48-517 and K.S.A. 2014 Supp. 76-729 and repealing the existing sections"; and the bill be passed as amended.

Committee on **Financial Institutions and Insurance** recommends **HB 2064** be amended on page 3, in line 2, by striking "or"; in line 4, after "thereto" by inserting "; or (5) a company providing products and services to customers for a fee where customers receive consultations with a licensed attorney connected to the customer by the company, so long as the company does not directly provide legal services, pay for legal services beyond a minimal administrative fee per customer or indemnify or reimburse the customer for any legal expenses incurred";

Also, on page 3, following line 18, by inserting:

"Sec. 3. K.S.A. 40-19a11 is hereby amended to read as follows: 40-19a11. (a) No corporation subject to the provisions of this act shall during any one year disburse more than ~~five percent (5%)~~ 5% of the aggregate amount of the payments received ~~from subscribers pursuant to K.S.A. 40-19a02, and amendments thereto,~~ during that year as expenditures ~~for the soliciting of subscribers solicitation,~~ except that during the first year after the issuance of a permit, such corporation may so disburse not more than ~~twenty percent (20%)~~ 20% of such amount, during the second year not more than ~~fifteen percent (15%)~~ 15%, and during the third year not more than ~~ten percent (10%)~~ 10%.

(b) No such corporation shall, during any one year, disburse more than ~~twelve~~

~~percent (12%)~~ 12% of the aggregate amount of the payments received ~~from subscribers pursuant to K.S.A. 40-19a02, and amendments thereto,~~ during that year as administrative expenses, except that during the first two years after the issuance of the permit, such corporation may disburse not more than ~~twenty percent (20%)~~ 20% of the payments received ~~from subscribers pursuant to K.S.A. 40-19a02, and amendments thereto.~~ The term, "administrative expenses," as used in this section, shall include all expenditures for nonprofessional services and, in general, all expenses not directly connected with the furnishing of the benefits specified in this act, but not including expenses referred to in subsection (a) ~~hereof~~;

Also on page 3, in line 19, after "40-1102" by inserting ", 40-19a11";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the second "insurance" by inserting ", nonprofit dental corporations, subscription agreements, disbursements"; in line 2, after "40-1102" by inserting ", 40-19a11"; and the bill be passed as amended.

Also, **HB 2142** be amended on page 4, following line 7, by inserting:

"Sec. 3. K.S.A. 40-2203 is hereby amended to read as follows: 40-2203. (A) *Required provisions.* Except as provided in paragraph (C) of this section every such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this subsection in the words in which the same appear in this section, but the insurer, at its option, may substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner of insurance which are in each instance not less favorable in any respect to the insured or the beneficiary. Such provisions shall be preceded individually by the caption appearing in this subsection or at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner of insurance may approve.

(1) A provision as follows: "*Entire contract; changes:* This policy, including the endorsement and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions."

(2) A provision as follows: "*Time limit on certain defenses:* (a) After two years from the date of issue of this policy no misstatements, except fraudulent misstatement, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period."

The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial two year period, nor to limit the application of subsections (B) (1), (2), (3), (4) and (5) in the event of misstatement with respect to age or occupation or other insurance.

A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (1) until at least age 50, or (2) in the case of a policy issued after age 44, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "*Incontestable*": "After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.

(b) "No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss has existed prior to the effective date of coverage of this policy."

(3) A provision as follows: "*Grace period:* A grace period of _____" (insert a number not less than "7" for weekly premium policies, "10" for monthly premium policies and "31" for all other policies) "days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force." A policy which contains a cancellation provision may add, at the end of the above provision, "subject to the right of the insurer to cancel in accordance with the cancellation provision hereof." A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision, "Unless not less than five days prior to the premium due date the insurer has delivered to the insured or has mailed to the last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted."

(4) A provision as follows: "*Reinstatement:* If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium without requiring in connection therewith an application for reinstatement shall reinstate the policy. If the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the 45th day following the date such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than 60 days prior to the date of reinstatement." The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age 50 or, (2) in the case of a policy issued after age 44, for at least five years from its date of issue.

(5) A provision as follows: "*Notice of claim:* Written notice of claim must be given to the insurer within 20 days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at _____" (insert the location of such office as the insurer may designate for the purpose), "or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer." In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences of the above provisions: "Subject to the

qualification set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given.

(6) A provision as follows: "*Claim forms*: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within 15 days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made."

(7) A provision as follows: "*Proofs of loss*: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within 90 days after the termination of the period for which the insurer is liable and in case of claim for any other loss within 90 days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required."

(8) A provision as follows: "*Time of payment of claims*: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid _____" (insert period for payment which must not be less frequently than monthly) "and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof."

(9) A provision as follows: "*Payment of claims*: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death, at the option of the insurer, may be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured." The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer: "If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$_____" (insert an amount which shall not exceed \$1,000), "to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this

provision shall fully discharge the insurer to the extent of such payment. Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person."

(10) A provision as follows: "*Physical examinations and autopsy*: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law."

(11) A provision as follows: "*Legal actions*: No action at law or in equity shall be brought to recover on this policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of five years after the time written proof of loss is required to be furnished."

(12) A provision as follows: "*Change of beneficiary*: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy."

The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.

(13) A provision as follows: "*Cancellation by insured*: The insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt of such notice or on such later date as may be specified in such notice. In the event of cancellation or death of the insured, the insurer will promptly return the unearned portion of any premium paid. The earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation." When approved by the commissioner, the "cancellation" provision appearing in subsection (B)(8) may be substituted for the above.

(B) *Other provisions*: Except as provided in paragraph (C) of this section, no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth below unless such provisions are in the words in which the same appear in this section, but the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner of insurance which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in this subsection or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner of insurance may approve.

(1) A provision as follows: "*Change of occupation*: If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the

indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation."

(2) A provision as follows: "*Misstatement of age*: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age."

(3) A provision as follows: "*Other insurance in this insurer*: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for _____" (insert type of coverage or coverages) "in excess of _____" (insert maximum limit of indemnity or indemnities) "the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate"; or, in lieu thereof: "Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies."

(4) A provision as follows: "*Insurance with other insurers*: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the 'like amount' of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage." If the foregoing policy provision is included in a policy which also contains the next following policy provision there shall be added to the caption of the foregoing provision the phrase "_____ expense incurred benefits." The insurer, at its option, may include in this provision a definition of "other valid coverage," approved as to form by the commissioner of insurance, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the

United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the commissioner of insurance. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage." The provisions of this paragraph shall not apply to any individual policy of accident and sickness insurance, as defined in K.S.A. 40-2201, and amendments thereto.

(5) A provision as follows: "*Insurance with other insurers*: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined." If the foregoing policy provision is included in a policy which also contains the next preceding policy provision there shall be added to the caption of the foregoing provision the phrase "_____ other benefits." The insurer, at its option, may include in this provision a definition of "other valid coverage," approved as to form by the commissioner of insurance, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner of insurance. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workers compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third-party liability coverage shall be included as "other valid coverage." The provisions of this paragraph shall not apply to any individual policy of accident and sickness insurance, as defined in K.S.A. 40-2201, and amendments thereto.

(6) A provision as follows: "*Relation of earnings to insurance*: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or the average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such

proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of \$200 or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time." The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age 50, or (2) in the case of a policy issued after age 44, for at least five years from its date of issue. The insurer, at its option, may include in this provision a definition of "valid loss of time coverage," approved as to form by the commissioner of insurance, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner of insurance or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workers compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.

(7) A provision as follows: "*Unpaid premium*: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom."

(8) A provision as follows: "*Cancellation*: The insurer may cancel this policy at any time by written notice delivered to the insured, or mailed to his last address as shown by the records of the insurer, stating when, not less than five days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation."

(9) A provision as follows: "*Conformity with state statutes*: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes."

(10) A provision as follows: "*Illegal occupation*: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation."

(11) A provision as follows: "*Intoxicants and narcotics*: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician."

(C) *Inapplicable or inconsistent provisions*: If any provision of this section is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy the insurer, with the approval of the commissioner of insurance, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

(D) *Order of certain policy provisions*: The provisions which are the subject of subsection (A) and (B) of this section, or any corresponding provisions which are used in lieu thereof in accordance with such subsections, shall be printed in the consecutive order of the provisions in such subsections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided the resulting policy, shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

(E) *Third-party ownership*: The word "insured," as used in this act, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits and rights provided therein.

(F) *Requirements of other jurisdictions*: (1) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this act and which is prescribed or required by the law of the state under which the insurer is organized.

(2) Any policy of a domestic insurer, when issued for delivery in any other state or country, may contain any provision permitted or required by the laws of such other state or country.

(G) *Filing procedure*: The commissioner of insurance may make such reasonable rules and regulations concerning the procedure for the filing or submission of policies subject to this act as are necessary, proper or advisable to the administration of this act. This provision shall not abridge any other authority granted the commissioner of insurance by law.

(H) (1) No policy issued by an insurer to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness.

(2) Violation of this subsection shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.;

Also on page 4, in line 8, before "K.S.A" by inserting "K.S.A. 40-2203 and";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "to" by inserting "required provisions;"; also in line 1, after "amending" by inserting "K.S.A. 40-2203 and"; and the bill be passed as amended.

HB 2216, as amended by House Committee, be amended on page 8, following line 10, by inserting:

"Sec. 4. K.S.A. 2014 Supp. 9-511 is hereby amended to read as follows: 9-511. The following persons shall be exempt from the provisions of this act:

(a) (1) Banks, building and loan associations, savings and loan associations, savings banks or credit unions organized under the laws of and subject to the supervision of this state, another state or the United States;

(2) service providers that: (A) By written agreement with the exempt entities listed in (a)(1), provide for receipt and delivery of funds, network access, processing, clearance or settlement services in support of money transmission activities; and (B) allow the state or federal regulators with regulatory jurisdiction over the exempt entity to examine and inspect the applicable records, books and transactions relating to the service provider;

(3) the government of the United States and its agencies, including agents of the government and its agencies; or

~~(2)~~ (4) the state of Kansas and its agencies, including agents of the state of Kansas and its agencies.

(b) This act also shall not apply to the distribution, transmission or payment of money as a part of the lawful practice of law, bookkeeping, accounting or real estate sales or brokerage or as an incidental and necessary part of any lawful business activity.";

On page 9, following line 37, by inserting:

"Sec. 7. K.S.A. 2014 Supp. 9-2201 is hereby amended to read as follows: 9-2201. As used in this act:

(a) "Bona fide office" means an applicant's or licensee's principal place of business ~~which meets all of the following requirements with an office that:~~

- (1) ~~The office~~ is located in this state;
- (2) ~~the office~~ is not located in a personal residence;
- (3) ~~the office~~ has regular hours of operation;
- (4) ~~the office~~ is accessible to the public;
- (5) ~~the office~~ is leased or owned by the licensee and serves as an office for the transaction of the licensee's mortgage business;
- (6) ~~the office~~ is separate from any office of another registrant; and
- (7) is accessible to all of the licensee's books, records and documents ~~are accessible through that office.~~

(b) "Branch office" means a place of business, other than a principal place of business, where mortgage business is conducted; and which is licensed as required by this act.

(c) "Commissioner" means the ~~Kansas~~ state bank commissioner.

(d) "License" means a license issued by the commissioner to engage in mortgage business as a mortgage company.

(e) "Licensee" means a person who is licensed by the commissioner as a mortgage company.

(f) "Loan originator" means an individual:

- (1) Who engages in mortgage business on behalf of a single mortgage company;
- (2) whose conduct of mortgage business is the responsibility of the licensee;
- (3) who takes a residential mortgage loan application or offers or negotiates terms

of a residential mortgage loan for compensation or gain or in the expectation of compensation or gain; and

(4) whose job responsibilities include contact with borrowers during the loan origination process, which can include soliciting, negotiating, acquiring, arranging or making mortgage loans for others, obtaining personal or financial information, assisting with the preparation of loan applications or other documents, quoting loan rates or terms; or providing required disclosures. It does not include any individual engaged solely as a loan processor or underwriter.

(g) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction and subject to the supervision and instruction of a person registered or exempt from registration under this act.

(1) For purposes of this subsection, the term "clerical or support duties" may include subsequent to the receipt of an application:

(A) The receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(B) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms.

(2) An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information including the use of business cards, stationery, brochures, signs, rate lists or other promotional items, that such individual can or will perform any of the activities of a loan originator.

(h) "Nationwide mortgage licensing system and registry" means a mortgage licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators for the licensing and registration of licensed mortgage loan originators.

(i) "Mortgage business" means engaging in, or holding out to the public as willing to engage in, for compensation or gain, or in the expectation of compensation or gain, directly or indirectly, the business of making, originating, servicing, soliciting, placing, negotiating, acquiring, selling; or arranging for others; or offering to solicit, place, negotiate, acquire, sell or arrange for others, mortgage loans in the primary market.

(j) "Mortgage company" means a person engaged in mortgage business from a principal place of business or branch office, which has been licensed as required by this act.

(k) "Mortgage loan" means a loan or agreement to extend credit made to a natural person which is secured by a first or second mortgage, deed of trust, contract for deed or other similar instrument or document representing a security interest or lien, except as provided for in K.S.A. 60-1101 through 60-1110, and amendments thereto, upon any lot intended for residential purposes or a one-to-four family dwelling as defined in ~~section 103(v) of the truth in lending act~~, 15 U.S.C. § 1602(v)(w), located in this state, occupied or intended to be occupied for residential purposes by the owner, including the renewal or refinancing of any such loan.

(l) "Person" means any individual, sole proprietorship, corporation, partnership, trust, association, joint venture, pool syndicate, unincorporated organization or other form of entity, however organized.

(m) "Primary market" means the market wherein mortgage loans are originated between a lender and a borrower, whether or not through a mortgage broker or other means.

(n) "Principal place of business" means a licensed place of business where mortgage business is conducted, which has been designated by a licensee as the primary headquarters from which all mortgage business and administrative activities are managed and directed.

(o) "Promotional items" means pens, pencils, hats and other such novelty items.

(p) "Registrant" means any individual who holds a valid registration to conduct mortgage business in this state as a loan originator.

(q) "Unique identifier" means a number or other identifier assigned by protocols established by the nationwide mortgage licensing system and registry.

Sec. 8. K.S.A. 2014 Supp. 9-1111 is hereby amended to read as follows: 9-1111. The general business of every bank shall be transacted at the place of business specified in ~~its~~ the bank's certificate of authority and at one or more branch banks established and operated as provided in this section. Except for the establishment or operation of a trust branch bank or the relocation of an existing trust branch bank pursuant to K.S.A. 9-1135, and amendments thereto, it shall be unlawful for any bank to establish and operate any branch bank or relocate an existing branch bank except as hereinafter provided. Notwithstanding the provisions of this section, any location at which a depository institution, as defined by K.S.A. 9-701, and amendments thereto, receives deposits, renews time deposits, closes loans, services loans or receives payments on loans or other obligations, as agent, for a bank pursuant to ~~subsection (25)~~ of K.S.A. 9-1101(25), and amendments thereto, or other applicable state or federal law, or is authorized to open accounts or receive deposits under ~~subsection (28)~~ of K.S.A. 9-1101(28), and amendments thereto, shall not be deemed to be a branch bank:

(a) For the purposes of this section, the term "branch bank" means any office, agency or other place of business located within this state, other than the place of business specified in the bank's certificate of authority, at which deposits are received, checks paid, money lent or trust authority exercised, if approval has been granted by the state bank commissioner, under K.S.A. 9-1602, and amendments thereto;

(b) establishment of a new branch or relocation of an existing branch for eligible banks:

(1) After first applying for and obtaining the approval of the commissioner, an eligible bank incorporated under the laws of this state, may establish and operate one or more branch banks or relocate an existing branch bank, anywhere within this state;

(2) the application shall include the nature of the banking business to be conducted at the proposed branch bank, the primary geographical area to be served by ~~it~~ the proposed branch bank, the personnel and office facilities to be provided at the proposed branch bank and other information the commissioner may require;

(3) the application shall include the name selected for the proposed branch bank. The name selected for the proposed branch bank shall not be the name of any other bank or branch bank doing business within a 15 mile radius of the same city or town, nor shall the name selected be required to contain the name of the applicant bank. If the name selected for the proposed branch bank does not contain the name of the applicant bank, the branch bank shall provide in the public lobby of such branch bank, a public notice that ~~it~~ such bank is a branch bank of the applicant bank;

(4) the application shall include proof of publication of notice that the applicant bank intends to file or has filed an application to establish a branch bank or relocate an existing branch bank. The notice shall be published in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank. The notice shall be in the form prescribed by the commissioner and at a minimum shall contain the name and address of the applicant bank, the location of the proposed branch and a solicitation for written comments. The notice shall be published on the same day for two consecutive weeks and provide for a comment period of not less than 10 days after the date of the second publication;

(5) upon receipt of the application, and following expiration of the comment period, the commissioner may hold a hearing in the county in which the applicant bank seeks to operate the branch bank. The applicant shall publish notice of the time, date and place of such hearing in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank, not less than 10 nor more than 30 days prior to the date of the hearing, and proof of publication shall be filed with the commissioner. At any such hearing, all interested persons shall be allowed to present written and oral evidence to the commissioner, or the commissioner's designee, in support of or in opposition to the branch bank. Upon completion of a transcript of the testimony given at any such hearing, the transcript shall be filed in the office of the commissioner;

(6) if the commissioner determines a public hearing is not warranted, the commissioner shall approve or disapprove the application within 15 days after receipt of a complete application but not prior to the end of the comment period. If a public hearing is held, the commissioner shall approve or disapprove the application within 60 days after consideration of the complete application and the evidence gathered during the commissioner's investigation. The period for consideration of the application may be extended if the commissioner determines the application presents a significant supervisory concern. If the commissioner finds that:

(A) There is a reasonable probability of usefulness and success of the proposed branch bank; and

(B) the applicant bank's financial history and condition is sound, the new branch or relocation shall be granted, otherwise, ~~it the relocation~~ shall be denied;

(7) within 15 days after any final action of the commissioner approving or disapproving an application, the applicant, or any adversely affected or aggrieved person who provided written comments during the specified comment period, may request a hearing with the state banking board. Upon receipt of a timely request, the board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act. Any decision of the state banking board is subject to review in accordance with the Kansas judicial review act;

(c) the establishment of a new branch or relocation of an existing branch for banks which do not meet the definition of "eligible bank" shall require that:

(1) After first applying for and obtaining the approval of the state banking board, a bank incorporated under the laws of this state, which does not meet the definition of "eligible bank," may establish and operate one or more branch banks, or relocate an existing branch bank, anywhere within this state;

(2) an application under paragraph (1) of this subsection, to establish and operate a branch bank or to relocate an existing branch bank shall be in such form and contain

such information as the rules and regulations of the state bank commissioner, adopted pursuant to K.S.A. 9-1713, and amendments thereto, shall provide;

~~(3)~~ the application shall include (A) Estimates of the annual income and expenses of the proposed branch bank, the annual volume of business to be transacted by it, the nature of the banking business to be conducted at the proposed branch bank, the primary geographical area to be served by it and the personnel and office facilities to be provided at the proposed branch bank;

~~(4)~~ the application shall include (B) the name selected for the proposed branch bank. The name selected for the proposed branch bank shall not be the name of any other bank or branch bank doing business within a 15 mile radius of the same city or town, nor shall the name selected be required to contain the name of the applicant bank. If the name selected for the proposed bank does not contain the name of the applicant bank, the branch bank shall provide in the public lobby of such branch bank, a public notice that it is a branch bank of the applicant bank; and

~~(5)~~ the application shall include (C) proof of publication of notice that applicant bank intends to file an application to establish a branch bank or relocate an existing branch bank. The notice shall be published in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank. The notice shall be in the form prescribed by the state banking board and at a minimum shall contain the name and address of the applicant bank, the location of the proposed branch and a solicitation for written comments. The notice shall be published on the same day for two consecutive weeks and provide for a comment period of not less than 10 days after the date of the second publication;

~~(6)~~ (3) upon receipt of an application meeting the ~~above~~ requirements of paragraph (2), and following the expiration of the comment period, within 60 days the state banking board may hold a hearing in the county in which the applicant bank seeks to establish and operate a branch bank. Notice of the time, date and place of such hearing if one is to be held shall be published in a newspaper of general circulation in the county where the applicant bank proposes to locate the branch bank not less than 10 or more than 30 days prior to the date of the hearing, and proof of publication shall be filed with the commissioner. At any such hearing, all interested persons shall be allowed to present written and oral evidence to the board in support of or in opposition to the application. Upon completion of a transcript of the testimony given at any such hearing, the transcript shall be filed in the office of the commissioner and copies shall be furnished to the members of the state banking board not less than 10 days prior to the meeting of the board at which the application will be considered;

~~(7)~~ (4) the state banking board shall approve or disapprove the application within 90 days after consideration of the application and the evidence gathered during the board's investigation. If the board finds that:

(A) There is a reasonable probability of usefulness and success of the proposed branch bank; and

(B) the applicant bank's financial history and condition is sound, the application shall be granted, otherwise; the application shall be denied; and

~~(8)~~ (5) any final action of the board approving or disapproving an application shall be subject to review in accordance with the Kansas judicial review act upon the petition of the applicant or any adversely affected or aggrieved person who provided written comments during the specified comment period;

(d) any branch bank lawfully established and operating on the effective date of this act may continue to be operated by the bank then operating the branch bank and by any successor bank;

(e) branch banks which have been established and are being maintained by a bank at the time of ~~its~~ the branch bank's merger into or consolidation with another bank or at the time ~~its~~ such branch bank's assets are purchased and ~~its~~ the branch bank's liabilities are assumed by another bank may continue to be operated by the surviving, resulting or purchasing and assuming bank. The surviving, resulting or purchasing and assuming bank, with approval of the state bank commissioner, may establish and operate a branch bank or banks at the site or sites of the merged, constituent or liquidated bank or banks;

(f) any state bank or national banking association may provide and engage in banking transactions by means of remote service units wherever located, which remote service units shall not be considered to be branch banks. Any banking transaction effected by use of a remote service unit shall be deemed to be transacted at a bank and not at a remote service unit;

(g) as a condition to the operation and use of any remote service unit in this state, a state bank or national banking association, each hereinafter referred to as a bank, which desires to operate or enable its customers to utilize a remote service unit must agree that such remote service unit will be available for use by customers of any other bank or banks upon the request of such bank or banks to share ~~its~~ the remote service unit's use and the agreement of such bank or banks to share all costs, including a reasonable return on capital expenditures incurred in connection with ~~its~~ the remote service unit's development, installation and operation. The owner of the remote service unit, whether a bank or any other person, shall make the remote service unit available for use by other banks and ~~their~~ the bank's customers on a nondiscriminatory basis, conditioned upon payment of a reasonable proportion of all costs, including a reasonable return on capital expenditures incurred in connection with the development, installation and operation of the remote service unit. Notwithstanding the foregoing provisions of this subsection, a remote service unit located on the property owned or leased by the bank where the principal place of business of a bank, or an attached auxiliary teller facility or branch bank of a bank, is located need not be made available for use by any other bank or banks or customers of any other bank or banks;

(h) for purposes of this section, "remote service unit" means an electronic information processing device, including associated equipment, structures and systems, through or by means of which information relating to financial services rendered to the public is stored and transmitted, ~~whether instantaneously or otherwise,~~ to a bank and which, for activation and account access, is dependent upon the use of a machine-readable instrument in the possession and control of the holder of an account with a bank or is activated by a person upon verifiable personal identification. The term shall include "online" computer terminals that may be equipped with a telephone or video device that allows contact with bank personnel and "offline" automated cash dispensing machines and automated teller machines, ~~but shall not include computer terminals or automated teller machines or automated cash dispensing machines using systems in which account numbers are not machine read and verified.~~ Withdrawals by means of "offline" systems shall not exceed \$300 per transaction and shall be restricted to individual not corporate or commercial accounts;

(i) for purposes of this section, "eligible bank" means a state bank that meets the

following criteria:

- (1) Received a composite rating of 1 or 2 under the uniform financial institutions rating system as a result of its most recent federal or state examination;
- (2) meets the following three criteria for a well capitalized bank:
 - (A) Has a total risk based capital ratio of 10% or greater;
 - (B) has a tier one risk based capital ratio of 6% or greater; and
 - (C) has a leverage ratio of 5% or greater; and
- (3) is not subject to a cease and desist order, consent order, prompt corrective action directive, written agreement, memorandum of understanding or other administrative agreement with ~~its~~ the bank's primary federal regulator or the office of the state bank commissioner.";

Also on page 9, in line 38, after "9-510," by inserting "9-511,"; also in line 38, by striking "and" and inserting a comma; also in line 38, after "9-513b" by inserting ", 9-1111 and 9-2201";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "banking" by inserting ", financial institutions"; in line 2, after "act" by inserting ", the Kansas mortgage business act, branch banking, remote service units"; also in line 2, after "9510," by inserting "9-511,"; in line 3, by striking the first "and" and inserting a comma; also in line 3, after "9-513b" by inserting ", 9-1111 and 9-2201"; and the bill be passed as amended.

HB 2259, as amended by House Committee, be amended on page 1, following line 35, by inserting:

"Sec. 2. K.S.A. 10-123 is hereby amended to read as follows: 10-123. (a) (1) If a municipality has approved an improvement for which ~~it~~ the municipality is authorized to finance, in whole or in part, by the issuance of bonds, the governing body of the municipality may issue temporary notes, ~~bearing that:~~

(A) Bear interest at a rate not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto;

(B) are payable in accordance with the terms of the notes;

(C) maturing mature not later than four years from the date of the notes; and

(D) do not exceeding exceed, in the aggregate, the amount of bonds which may be issued and are then unissued, as shown by the approved estimates on file.

(2) If bonds may be issued; for purposes for which state or federal aid is available, the amount of the notes shall not exceed the total amount of any unissued bonds and the state and federal aid granted to the project. Any municipality may issue renewal temporary notes to pay for the cost of taking up any previously issued temporary notes ~~as they the notes~~ mature when;

(A) All aspects of the improvement will not be completed at the maturity date of the notes; or

(B) ~~when~~ the municipality has completed the improvements and the issuance of bonds is prevented, hindered or delayed.

(b) (1) The temporary notes shall be in a form determined by ordinance or resolution; that are acceptable for registration by the state treasurer. ~~The entire temporary note shall be contained on one sheet of paper.~~ The notes shall be executed and registered in the same manner as the bonds; and shall be redeemed and canceled before or at the time permanent bonds are issued in lieu thereof. ~~The amount of temporary notes and bonds issued and outstanding shall not at any time exceed the~~

~~estimated cost and expense of the improvement.~~ Temporary notes may be retired, in whole or in part, from current revenues of the municipality authorized for such purpose.

(2) The temporary notes;

(A) May be issued from time to time, as required during the progress of the work;

(B) shall be negotiable in accordance with ~~their~~ the terms of the notes; and

(C) shall constitute a general obligation of the municipality issuing the same.

(3) The temporary notes shall not be negotiable in accordance with ~~their~~ the terms of the notes until the notes are signed, registered and then countersigned, ~~following registration~~, by the clerk of the issuing municipality; and include a statement to that effect ~~shall appear~~ on the face of all such temporary notes.

(4) The temporary notes may be sold in the manner determined by the municipality.

(c) The amount of temporary notes and bonds issued and outstanding shall not, at any time, exceed the estimated cost and expense of the improvement.;

Also on page 1, in line 36, after "K.S.A." by inserting "10-123 and"; also in line 36, by striking "is" and inserting "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 "deadlines" and inserting "municipal finance; relating to temporary notes for improvements, indebtedness reporting"; also in line 2, after "K.S.A." by inserting "10-123 and"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Local Government** recommends **HB 2165**, as amended by House Committee, be amended on page 1, following line 4, by inserting:

"Section 1. K.S.A. 12-2908 is hereby amended to read as follows: 12-2908. (a) When used in this act, "municipality" means a city, county ~~or~~ township, school district, library district, road district, water district, drainage district, sewer district or fire district.

(b) Any municipality may contract with any municipality to perform any governmental service, activity or undertaking which each contracting municipality is authorized by law to perform. The contract shall be authorized by the governing body of the municipality and shall state the purpose of the contract and the powers and duties of the parties thereunder.

(c) A contract entered into pursuant to this section shall not be regarded as an interlocal agreement under the provisions of K.S.A. 12-2901 et seq., and amendments thereto.";

Also, on page 1, following line 21, by inserting:

"Sec. 3. K.S.A. 19-27a19 is hereby amended to read as follows: 19-27a19. All contracts for any construction of all or part of a sewer system, the cost of which shall exceed ~~\$1,000~~ \$2,500, shall be awarded on a public letting to the lowest responsible bidder and in the manner provided by K.S.A. 19-214, 19-215 and 19-216, and amendments thereto.";

Also on page 1, in line 22, after "K.S.A." by inserting "12-2908,"; also in line 22, by striking "is" and inserting "and 19-27a19 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "municipalities; contacts; filling vacancies in"; also in line 1, after "K.S.A." by inserting "12-2908,"; in line 2, after "2761" by inserting "and 19-27a19"; also in line 2, by striking "section" and

inserting "sections"; and the bill be passed as amended.

Committee on **Natural Resources** recommends **HB 2192** be passed.

Committee on **Transportation** recommends **SB 245** be passed.

Committee on **Ways and Means** recommends **HB 2009**, as amended by House Committee, be passed.

CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

On motion of Senator King the Senate nonconcurrred in the House amendments to **SB 113** and requested a conference committee be appointed.

The President appointed Senators King, Smith and Haley as a conference committee on the part of the Senate.

COMMITTEE OF THE WHOLE

On motion of Senator Bruce, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Knox in the chair.

On motion of Senator Knox, the following report was adopted.

SB 161 be passed.

SB 246; HB 2006, HB 2025, HB 2231 be amended by the adoption of the committee amendments, and the bills be passed as amended.

A motion by Schmidt to amend **HB 2231** failed, division was requested and the following amendment was rejected: on page 2, following line 39, by inserting:

"(7) (A) If the commission determines that the financial assurance provided by an operator pursuant to subsection (d) is insufficient to assure the financial responsibility of the operator, the commission shall require additional financial assurance pursuant to rules and regulations established by the commission.

(B) The commission shall establish rules and regulations required in this subsection within 12 months of the effective date of this act."

A motion by Senator Holland to amend **HB 2231** failed.

The committee report on **SB 155** recommending **Sub SB 155** be adopted, and the substitute bill be passed.

HB 2051 be amended by adoption of the committee amendments, a motion by Senator O'Donnell to amend **HB 2051** was withdrawn and **HB 2051** be passed over and retain a place on the calendar.

On motion of Senator Bruce, the Senate adjourned until 2:30 p.m., Thursday, March 19, 2015.

ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

