

# Journal of the House

## THIRTY-FIRST DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Tuesday, February 26, 2019, 9:00 a.m.

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

The roll was called with 123 members present.

Rep. Huebert was excused on excused absence by the Speaker.

Prayer by Chaplain Brubaker:

Lord God,  
For the many blessings You give to us today,  
we say thank you.  
In this complicated and complex world,  
it is comforting to know we can look to You for answers.  
Please shed your light of wisdom and discernment  
upon our leaders today.  
Their task is in no way easy or simple,  
but you have gifted them for this moment.  
Please continue to guide and direct them.  
Help them to be encouraging, useful, productive  
and gracious in all their activities.  
And, thank You for reminding us last night  
that You apparently want us to share with one another  
in our wins and losses.  
In Christ Name I pray, Amen.

The Pledge of Allegiance was led by Rep. Hoheisel.

### REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was referred to committees as indicated:

Appropriations: **HB 2387**.

### CONSENT CALENDAR

No objection was made to **HB 2246** appearing on the Consent Calendar for the second day.

No objection was made to **HB 2215**, **HB 2365** appearing on the Consent Calendar for the third day. The bills were advanced to Final Action on Bills and Concurrent Resolutions.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

**HB 2215**, AN ACT concerning the Kansas state fair board; authorizing the board to establish a nonprofit corporation for the benefit of the state fair; amending K.S.A. 74-520a and repealing the existing section, was considered on final action.

Call of the House was demanded.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alcala, Amyx, Arnberger, Awerkamp, Baker, Ballard, Barker, Benson, Bergquist, Bishop, Blex, Burris, Burroughs, Capps, Carlin, Carlson, Carmichael, B. Carpenter, W. Carpenter, Claeys, Clark, Clayton, Collins, Concannon, Corbet, Cox, Croft, Curtis, Delperdang, Dierks, Dietrich, Donohoe, Dove, Ellis, Eplee, Erickson, Esau, Finch, Finney, Francis, French, Frownfelter, Garber, Gartner, Hawkins, Helgerson, Helmer, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Hoheisel, Holscher, Horn, Howard, Humphries, Jacobs, Jennings, Johnson, Karleskint, Kelly, Kessinger, Kuether, Landwehr, Long, Lusk, Lynn, Mason, Mastroni, Moore, Murnan, Neighbor, Ohaebosim, Orr, Ousley, Owens, Pannbacker, Parker, F. Patton, Phillips, Pittman, Probst, Proehl, Rahjes, Ralph, Resman, Rhiley, Ruiz, L., Ruiz, S., Ryckman, Samsel, Sawyer, Schreiber, Seiwert, Smith, A., Smith, E., Stogsdill, Sutton, Tarwater, Thimesch, Thomas, Thompson, Toplikar, Vickrey, Victors, Waggoner, Ward, Warfield, Warren, Wasinger, Waymaster, Weigel, Wheeler, Whipple, K. Williams, Winn, Wolfe Moore, Woodard, Xu.

Nays: None.

Present but not voting: None.

Absent or not voting: Houser, Huebert.

The bill passed.

**HB 2365**, AN ACT concerning civil procedure and civil actions; relating to rules of evidence; peer support counseling session communication privilege; Kansas national guard members; amending K.S.A. 2018 Supp. 60-473 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 122; Nays 0; Present but not voting: 0; Absent or not voting: 2.

Yeas: Alcala, Amyx, Arnberger, Awerkamp, Baker, Ballard, Barker, Benson, Bergquist, Bishop, Blex, Burris, Burroughs, Capps, Carlin, Carlson, Carmichael, B. Carpenter, W. Carpenter, Claeys, Clark, Clayton, Collins, Concannon, Corbet, Cox, Croft, Curtis, Delperdang, Dierks, Dietrich, Donohoe, Dove, Ellis, Eplee, Erickson, Esau, Finch, Finney, Francis, French, Frownfelter, Garber, Gartner, Hawkins, Helgerson, Helmer, Henderson, Hibbard, Highberger, Highland, Hineman, Hodge, Hoffman, Hoheisel, Holscher, Horn, Howard, Humphries, Jacobs, Jennings, Johnson, Karleskint, Kelly, Kessinger, Kuether, Landwehr, Long, Lusk, Lynn, Mason, Mastroni, Moore, Murnan, Neighbor, Ohaebosim, Orr, Ousley, Owens, Pannbacker, Parker, F. Patton, Phillips, Pittman, Probst, Proehl, Rahjes, Ralph, Resman, Rhiley, Ruiz, L., Ruiz, S., Ryckman, Samsel, Sawyer, Schreiber, Seiwert, Smith, A., Smith, E., Stogsdill, Sutton, Tarwater, Thimesch, Thomas, Thompson, Toplikar, Vickrey, Victors, Waggoner, Ward, Warfield, Warren, Wasinger, Waymaster, Weigel, Wheeler, Whipple, K. Williams, Winn, Wolfe Moore, Woodard, Xu.

Nays: None.

Present but not voting: None.  
 Absent or not voting: Houser, Huebert.  
 The bill passed.

On motion of Rep. Hawkins, the House resolved into the Committee of the Whole, with Rep. Hoffman in the chair.

### COMMITTEE OF THE WHOLE

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

Recommended that **HB 2103, HB 2140, HB 2174, HB 2177, HB 2191, HB 2209, HB 2211, HB 2281** be passed.

Committee report to **HB 2006** be adopted.

Also, on motion of Rep. Ralph, **HB 2006** be amended on page 1, in line 23, by striking "two" and inserting "three"; in line 25, by striking "two" and inserting "three"; and the bill be passed as amended.

Committee report to **HB 2290** be adopted; and the bill be passed as amended.

Committee report to **HB 2031** be adopted; and the bill be passed as amended.

On motion of Rep. Probst, **HB 2147** be amended on page 1, following line 5, by inserting:

"Section 1. K.S.A. 12-5245 is hereby amended to read as follows: 12-5245. (a) Upon receipt of the approval of the secretary as provided in ~~subsection (e) of K.S.A. 12-5244(c), and amendments thereto,~~ the governing body may proceed with the establishment of the district. Before doing so, the governing body shall adopt a plan for the development or redevelopment of housing and public facilities in the proposed district. Such plan may include plans for one or more projects, and the length of any individual project shall not exceed ~~15~~ 25 years. The plan shall include, but not be limited to, the following:

(1) The legal description and map required by ~~subsection (a) of K.S.A. 12-5244(a), and amendments thereto.~~

(2) The existing assessed valuation of the real estate in the proposed district, listing the land and improvement values separately;

(3) A list of the names and addresses of the owners of record of all real estate parcels within the proposed district;

(4) A description of the housing and public facilities project or projects that are proposed to be constructed or improved in the proposed district, and the location thereof;

(5) A listing of the names, addresses and specific interests in real estate in the proposed district of the developers responsible for development of the housing and public facilities in the proposed district;

(6) The contractual assurances, if any, the governing body has received from such developer or developers, guaranteeing the financial feasibility of specific housing tax incentive projects in the proposed district;

(7) A comprehensive analysis of the feasibility of providing housing tax incentives in the district as provided in this act, which shows the public benefits derived from such district will exceed the costs and that the income therefrom, together with other sources of funding, will be sufficient to pay for the public improvements that may be undertaken in such district. If other sources of public or private funds are to be used to finance the improvements, they shall be identified in the analysis.

(b) Prior to the adoption of the plan and designation of the district, the governing body shall adopt a resolution stating that the governing body is considering such action. The resolution shall provide notice that a public hearing will be held to consider the adoption of the plan and the designation of the district and contain the following elements:

- (1) The date, hour and place of the public hearing;
  - (2) The contents of ~~paragraphs (1) through (4) in subsection (a) of this section~~ (1) through (4);
  - (3) A summary of the contractual assurances by the developer and comprehensive feasibility analysis; and
  - (4) A statement that the plan is available for inspection at the office of the clerk of the city or county at normal business hours;
  - (5) A statement inviting members of the public to review the plan and attend the public hearing on the date announced in the resolution;
- (c) The date fixed for the public hearing shall be not less than 30 nor more than 70 days following the date of the adoption of the resolution. The resolution shall be published at least once in the official newspaper of the city or county, with the final publication being not less than one week or more than two weeks preceding the date fixed for the public hearing.
- (d) A certified copy of the resolution shall be delivered to the planning commission of the city or county and the board of education of any school district levying taxes on property within the proposed district. If the resolution is adopted by a city governing body, a certified copy also shall be delivered to the board of county commissioners of the county. If the resolution is adopted by a county governing body, it also shall be delivered to the governing body of any city located within three miles of such proposed district.";

On page 2, following line 30, by inserting:

"Sec. 3. K.S.A. 12-5250 is hereby amended to read as follows: 12-5250. (a) All taxable tangible property located within a district established in accordance with this act shall be assessed and taxed for ad valorem tax purposes pursuant to law in the same manner that such property would be assessed and taxed if located outside such district, and all ad valorem taxes levied on such property shall be paid to and collected by the county treasurer in the same manner as other taxes are paid and collected. Except as otherwise provided in this section, the county treasurer shall distribute such taxes as may be collected in the same manner as if such property were located outside the district. Each district established under the provisions of this act shall constitute a separate taxing unit for the purpose of the computation and levy of taxes.

(b) Beginning with the first payment of taxes which are levied following the date of the approval of any district in accordance with this act, and amendments thereto, real property taxes received by the county treasurer resulting from taxes which are levied subject to the provisions of this act by and for the benefit of a taxing subdivision on

property located within such district constituting a separate taxing unit under the provisions of this section, shall be divided as follows:

(1) From the taxes levied each year subject to the provisions of this act by or for each taxing subdivisions upon property located within a district constituting a separate taxing unit under the provisions of this act, the county treasurer first shall allocate and pay to each such taxing subdivision all of the real property taxes collected which are produced from that portion of the current assessed valuation of such real property located within such separate taxing unit which is equal to the total assessed value of such real property on the date of the establishment of the district.

(2) Any real property taxes produced from that portion of the current assessed valuation of real property within a district and constituting a separate taxing unit under the provisions of this section in excess of an amount equal to the total assessed value of such real property on the effective date of the establishment of the district shall be allocated and paid by the county treasurer to the treasurer as follows:

(A) In districts established by a city, the amount shall be paid to the treasurer of the city and deposited in a special fund of the city to pay the cost of housing projects in the district including the payment of principal of and interest on any special obligation bonds issued by such city to finance, in whole or in part, such housing project.

(B) In districts established by a county, the amount shall be deposited by the county treasurer in a special fund of the county to pay the cost of housing projects in the district including the payment of principal of and interest on any special obligation bonds issued by such county to finance, in whole or in part, such housing project. If such special obligation bonds and interest thereon have been paid before the completion of a project, the city or county may continue to use such moneys for any purpose authorized by this act until such time as the project is completed, but for not to exceed ~~15~~ 25 years from the date of the establishment of the district. When such special obligation bonds and interest thereon have been paid and the project is completed, all moneys thereafter received from real property taxes within such district shall be allocated and paid to the respective taxing subdivisions in the same manner as are other ad valorem taxes.

(c) Notwithstanding any other provision of law, it is hereby stated that is an object of all ad valorem taxes levied by or for the benefit of any taxing subdivision on taxable tangible real property located within any district created pursuant to this act, that such taxes may be applied and allocated to and when collected paid into a special fund of a city or county pursuant to the procedures and limitations of this act to pay the cost of a project including principal of and interest on special obligation bonds issued by such city or county to finance, in whole or in part, such project.";

Also on page 2, in line 31, before "K.S.A." by inserting "K.S.A. 12-5245 and 12-5250 and"; also in line 31, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "amending" by inserting "K.S.A. 12-5245 and 12-5250 and"; in line 3, by striking "section" and inserting "sections" and the bill be passed as amended.

Committee report to **HB 2239** be adopted; and the bill be passed as amended.

Committee report to **HB 2084** be adopted.

Also, on motion of Rep. Delperdang, **HB 2084** be amended on page 10, following line 38, by inserting:

"(3) If the balance in the 911 state grant fund is less than \$2,000,000, prior to the distribution to the PSAPs pursuant to K.S.A. 2018 Supp. 12-5374, and amendments thereto, the LCPA shall withhold \$.01 from every 911 fee remitted pursuant to K.S.A. 2018 Supp. 12-5369, and amendments thereto, and shall deposit such amount in the 911 state grant fund. If the balance in the 911 state grant fund exceeds \$2,000,000, the LCPA shall not withhold such amount."

Also, on motion of Rep. Carmichael to amend **HB 2084**, on page 11, in line 22, by striking "\$1.03" and inserting "\$.82"; and the bill be passed as amended.

Committee report to **HB 2126** be adopted; and the bill be passed as amended.

Committee report to **HB 2167** be adopted.

Also, on motion of Rep. Frownfelter to amend **HB 2167**, the motion did not prevail. and the bill be passed as amended.

## REPORTS OF STANDING COMMITTEES

Committee on **Children and Seniors** recommends **HB 2228** be amended on page 1, in line 13, by striking "Each" and inserting "A"; in line 14, by striking the period and inserting ", except that"; in line 15, after the second "violation" by inserting "that shall be subject to a civil fine in an amount not to exceed \$100"; in line 25, by striking "\$1,000" and inserting "\$500"; also in line 25, by striking "each" and inserting "a"; also in line 25, by striking "and"; also in line 25, after the first comma by inserting "except that"; in line 27, after "violation" by inserting "that shall be subject to a civil fine in an amount not to exceed \$100"; in line 28, after "(d)" by inserting "The provisions of subsections (b) and (c) shall not apply to a person providing child care for:

- (1) Children who are provided child care in the home in which such children reside;
- (2) children who are all relatives of the person; or
- (3) up to two children unrelated to the person for not more than 20 hours a week. Such 20 hours shall be calculated by combining the hours each child is provided care during the week by such person.

(e) ";

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

Committee on **Health and Human Services** recommends **HB 2066** be amended on page 1, in line 14, after "practice" by inserting ", for licensed practical nurses and registered nurses,"; in line 16, by striking "implementation" and inserting "execution"; by striking all in line 18; in line 19, by striking "education" and inserting "nursing regimen. Advanced practice registered nurses are educated and trained in using diagnoses and may develop primary and differential diagnoses within the advanced practice registered nurse scope of practice";

On page 4, in line 33, after the period by inserting "An advanced practice registered nurse shall not prescribe any drug that is intended to cause an abortion.";

On page 5, following line 43, by inserting:

"(h) (1) The board shall adopt rules and regulations establishing a program of transition to full practice as an advanced practice registered nurse. Any advanced practice registered nurse who has less than 4,000 hours of licensed active practice as an advanced practice registered nurse under a collaborative relationship with a physician in accordance with this subsection shall be required to undergo such transition program.

Any hours completed under a written protocol with a responsible physician prior to the amendments made to this section by this act shall not count towards the 4,000-hour requirement.

(2) A transition period advanced practice registered nurse shall not prescribe, procure or administer prescription drugs, except as provided in this paragraph. As part of the transition to full practice as an advanced practice registered nurse, an advanced practice registered nurse shall complete 4,000 hours in accordance with paragraph (1) within a period of three years while maintaining a collaborative relationship with a physician or a full practice advanced practice registered nurse for the prescription, procurement and administration of prescription drugs by the transition period advanced practice registered nurse.

(3) A transition period advanced practice registered nurse may engage in the practice of nursing as an advanced practice registered nurse and may prescribe, procure and administer prescription drugs as part of the collaborative relationship described in paragraph (2).

(4) The board shall specify the manner and form in which a transition period advanced practice registered nurse may identify and represent such credentials, professionally and to the public.

(5) A transition period advanced practice registered nurse shall complete any documentation required by the board to demonstrate completion of the transition program prior to becoming a full practice advanced practice registered nurse. Upon successful completion of the transition program, the board shall authorize the advanced practice registered nurse to engage in the practice of advanced practice registered nursing without the limitations imposed by this subsection and as otherwise authorized by law.

(6) The board shall adopt rules and regulations as necessary to implement and administer this subsection.

(7) As used in this subsection:

(A) "Full practice" means the full extent of practice authorized under the Kansas nurse practice act, and rules and regulations adopted thereunder, without a written protocol with a responsible physician or a collaborative relationship with a physician.

(B) "Physician" means a person licensed by the state board of healing arts to practice medicine and surgery.";

On page 11, following line 4, by inserting:

"Sec. 4. K.S.A. 2018 Supp. 40-3401 is hereby amended to read as follows: 40-3401. As used in this act:

(a) "Applicant" means any healthcare provider.

(b) "Basic coverage" means a policy of professional liability insurance required to be maintained by each healthcare provider pursuant to the provisions of K.S.A. 40-3402(a) or (b), and amendments thereto.

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

(d) "Fiscal year" means the year commencing on the effective date of this act and each year, commencing on the first day of July thereafter.

(e) "Fund" means the healthcare stabilization fund established pursuant to K.S.A. 40-3403(a), and amendments thereto.

(f) (1) "Healthcare provider" means a person licensed to practice any branch of the healing arts by the state board of healing arts, a person who holds a temporary permit to

practice any branch of the healing arts issued by the state board of healing arts, a person engaged in a postgraduate training program approved by the state board of healing arts, a medical care facility licensed by the state of Kansas, a podiatrist licensed by the state board of healing arts, a health maintenance organization issued a certificate of authority by the commissioner, an optometrist licensed by the board of examiners in optometry, a pharmacist licensed by the state board of pharmacy, a licensed professional nurse who is authorized to practice as a registered nurse anesthetist, a licensed professional nurse who has been granted a temporary authorization to practice nurse anesthesia under K.S.A. 65-1153, and amendments thereto, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are healthcare providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are healthcare providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are healthcare providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are healthcare providers as defined by this subsection, a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine, a dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899, and amendments thereto, a psychiatric hospital licensed prior to January 1, 1988, and continuously thereafter under K.S.A. 2015 Supp. 75-3307b, prior to its repeal, and K.S.A. 2018 Supp. 39-2001 et seq., and amendments thereto, ~~or a mental health center or mental health clinic licensed by the state of Kansas.~~ On and after January 1, 2015, "healthcare provider" also means, a physician assistant licensed by the state board of healing arts, a licensed advanced practice registered nurse who is authorized by the board of nursing to practice as an advanced practice registered nurse in the classification of a nurse-midwife, a licensed advanced practice registered nurse who has been granted a temporary authorization by the board of nursing to practice as an advanced practice registered nurse in the classification of a nurse-midwife, a nursing facility licensed by the state of Kansas, an assisted living facility licensed by the state of Kansas ~~or~~ a residential healthcare facility licensed by the state of Kansas or an advanced practice registered nurse licensed by the board of nursing.

(2) "Healthcare provider" does not include: ~~(1)(A)~~ Any state institution for people with intellectual disability; ~~(2)(B)~~ any state psychiatric hospital; ~~(3)(C)~~ any person holding an exempt license issued by the state board of healing arts or the board of nursing; ~~(4)(D)~~ any person holding a visiting clinical professor license from the state board of healing arts; ~~(5)(E)~~ any person holding an inactive license issued by the state board of healing arts; ~~(6)(F)~~ any person holding a federally active license issued by the state board of healing arts; ~~(7)(G)~~ an advanced practice registered nurse who is authorized by the board of nursing to practice as an advanced practice registered nurse in the classification of nurse-midwife or nurse anesthetist and who practices solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies or who provides professional services as a charitable healthcare provider as defined under K.S.A. 75-6102, and amendments thereto; ~~or (8)~~ (H) a physician assistant licensed by the state board of healing arts who practices solely



in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies or who provides professional services as a charitable healthcare provider as defined under K.S.A. 75-6102, and amendments thereto; or (I) an advanced practice registered nurse: (i) Holding an inactive license issued by the board of nursing; (ii) practicing solely in employment for which the advanced practice registered nurse is covered under the federal tort claims act or the Kansas tort claims act; (iii) practicing solely as a charitable healthcare provider in accordance with K.S.A. 75-6102, and amendments thereto; or (iv) practicing solely while serving on active duty in the military service of the United States.

(g) "Inactive healthcare provider" means a person or other entity who purchased basic coverage or qualified as a self-insurer on or subsequent to the effective date of this act but who, at the time a claim is made for personal injury or death arising out of the rendering of or the failure to render professional services by such healthcare provider, does not have basic coverage or self-insurance in effect solely because such person is no longer engaged in rendering professional service as a healthcare provider.

(h) "Insurer" means any corporation, association, reciprocal exchange, inter-insurer and any other legal entity authorized to write bodily injury or property damage liability insurance in this state, including workers compensation and automobile liability insurance, pursuant to the provisions of the acts contained in article 9, 11, 12 or 16 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

(i) "Plan" means the operating and administrative rules and procedures developed by insurers and rating organizations or the commissioner to make professional liability insurance available to healthcare providers.

(j) "Professional liability insurance" means insurance providing coverage for legal liability arising out of the performance of professional services rendered or that should have been rendered by a healthcare provider.

(k) "Rating organization" means a corporation, an unincorporated association, a partnership or an individual licensed pursuant to K.S.A. 40-956, and amendments thereto, to make rates for professional liability insurance.

(l) "Self-insurer" means a healthcare provider who qualifies as a self-insurer pursuant to K.S.A. 40-3414, and amendments thereto.

(m) "Medical care facility" means the same when used in the healthcare provider insurance availability act as defined in K.S.A. 65-425, and amendments thereto, except that as used in the healthcare provider insurance availability act such term, as it relates to insurance coverage under the healthcare provider insurance availability act, also includes any director, trustee, officer or administrator of a medical care facility.

(n) "Mental health center" means a mental health center licensed by the state of Kansas under K.S.A. 2018 Supp. 39-2001 et seq., and amendments thereto, except that as used in the healthcare provider insurance availability act such term, as it relates to insurance coverage under the healthcare provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health center.

(o) "Mental health clinic" means a mental health clinic licensed by the state of Kansas under K.S.A. 2018 Supp. 39-2001 et seq., and amendments thereto, except that as used in the healthcare provider insurance availability act such term, as it relates to insurance coverage under the healthcare provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health clinic.

(p) "State institution for people with intellectual disability" means Winfield state

hospital and training center, Parsons state hospital and training center and the Kansas neurological institute.

(q) "State psychiatric hospital" means Larned state hospital, Osawatomie state hospital and Rainbow mental health facility.

(r) "Person engaged in residency training" means:

(1) A person engaged in a postgraduate training program approved by the state board of healing arts who is employed by and is studying at the university of Kansas medical center only when such person is engaged in medical activities that do not include extracurricular, extra-institutional medical service for which such person receives extra compensation and that have not been approved by the dean of the school of medicine and the executive vice-chancellor of the university of Kansas medical center. Persons engaged in residency training shall be considered resident healthcare providers for purposes of K.S.A. 40-3401 et seq., and amendments thereto; and

(2) a person engaged in a postgraduate training program approved by the state board of healing arts who is employed by a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine or who is employed by an affiliate of the university of Kansas school of medicine as defined in K.S.A. 76-367, and amendments thereto, only when such person is engaged in medical activities that do not include extracurricular, extra-institutional medical service for which such person receives extra compensation and that have not been approved by the chief operating officer of the nonprofit corporation or the chief operating officer of the affiliate and the executive vice-chancellor of the university of Kansas medical center.

(s) "Full-time physician faculty employed by the university of Kansas medical center" means a person licensed to practice medicine and surgery who holds a full-time appointment at the university of Kansas medical center when such person is providing healthcare. A person licensed to practice medicine and surgery who holds a full-time appointment at the university of Kansas medical center may also be employed part-time by the United States department of veterans affairs if such employment is approved by the executive vice-chancellor of the university of Kansas medical center.

(t) "Sexual act" or "sexual activity" means that sexual conduct that constitutes a criminal or tortious act under the laws of the state of Kansas.

(u) "Board" means the board of governors created by K.S.A. 40-3403, and amendments thereto.

(v) "Board of directors" means the governing board created by K.S.A. 40-3413, and amendments thereto.

(w) "Locum tenens contract" means a temporary agreement not exceeding 182 days per calendar year that employs a healthcare provider to actively render professional services in this state.

(x) "Professional services" means patient care or other services authorized under the act governing licensure of a healthcare provider.

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

(z) "Charitable healthcare provider" means the same as defined in K.S.A. 75-6102, and amendments thereto.";

Also on page 11, in line 5, by striking the second "and" and inserting a comma; in

line 6, after "Kansas" by inserting ", and K.S.A. 2018 Supp. 40-3401";

And by renumbering sections accordingly;

On page 1, in the title, in line 4, by striking the second "and" and inserting a comma; in line 5, by striking the first "of"; also in line 5, after "Kansas" by inserting ", and K.S.A. 2018 Supp. 40-3401"; and the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2082** be amended on page 1, in line 6, after the first "(a)" by inserting "(1)"; also in line 6, after "drug" by inserting "by injection that, in the judgment of the prescriber, may be safely self-administered by a patient,"; following line 9, by inserting:

"(2) Nothing in this section shall replace, repeal or supersede the requirements prescribed in K.S.A. 65-4a10, and amendments thereto."; and the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2307** be amended on page 1, by striking all in lines 7 through 18; in line 24, before "or" by inserting ", annual"; in line 27, by striking all after "rate"; in line 28, by striking all before the period;

On page 2, in line 23, by striking "40-2,185 and"; also in line 23, by striking "are" and inserting "is";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, by striking "40-2,185 and"; in line 4, by striking "sections" and inserting "section"; and the bill be passed as amended.

Committee on **Insurance** recommends **HB 2054** be amended on page 15, following line 20, by inserting:

"Sec. 2. On and after April 1, 2019, K.S.A. 40-2209b is hereby amended to read as follows: 40-2209b. (a) The provisions of K.S.A. 40-2209b through 40-2209j and 40-2209m through 40-2209o, and amendments thereto, shall be known and may be cited as the small employer health insurance availability act.

(b) The purpose and intent of this the small employer health insurance availability act are to promote the availability of health insurance coverage to small employers regardless of their health status or claims experience, to prevent abusive rating practices, to require disclosure of rating practices to purchasers, to establish rules regarding renewability of coverage, to establish limitations on the use of pre-existing condition exclusions, to provide for development of "basic" and "standard" health benefit plans to be offered to all small employers, to provide for establishment of a reinsurance program, and to improve the overall fairness and efficiency of the small group health insurance market.

Sec. 3. On and after April 1, 2019, K.S.A. 2018 Supp. 40-2209d is hereby amended to read as follows: 40-2209d. As used in ~~this the small employer health insurance availability act:~~

(a) "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the commissioner that a small employer carrier is in compliance with the provisions of K.S.A. 40-2209h, and amendments thereto, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefit plans.

(b) "Approved service area" means a geographical area, as approved by the commissioner to transact insurance in this state, within which the carrier is authorized

to provide coverage.

(c) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business, by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage.

(d) "Carrier" or "small employer carrier" means any insurance company, nonprofit medical and hospital service corporation, nonprofit optometric, dental, and pharmacy service corporations, municipal group-funded pool, fraternal benefit society or health maintenance organization, as these terms are defined ~~by in chapter 40 of the Kansas Statutes Annotated, and amendments thereto~~, that offers health benefit plans covering eligible employees of one or more small employers in this state.

(e) "Case characteristics" means, with respect to a small employer, the geographic area in which the employees reside; the age and sex of the individual employees and their dependents; the appropriate industry classification as determined by the carrier, and the number of employees and dependents and such other objective criteria as may be approved family composition by the commissioner. "Case characteristics" shall not include claim experience, health status and duration of coverage since issue.

(f) "Class of business" means all or a separate grouping of small employers established pursuant to K.S.A. 40-2209g, and amendments thereto.

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

(h) "Department" means the insurance department.

(i) "Dependent" means the spouse or child of an eligible employee, subject to applicable terms of the health benefits plan covering such employee and the dependent eligibility standards established by the board.

(j) "Eligible employee" means an employee who works on a full-time basis, with a normal work week of 30 or more hours, and includes a sole proprietor, a partner of a partnership or an independent contractor, provided such sole proprietor, partner or independent contractor is included as an employee under a health benefit plan of a small employer but does not include an employee who works on a part-time, temporary or substitute basis.

(k) "Financially impaired" means a member which, after the effective date of this act, is not insolvent but is:

(1) Deemed by the commissioner to be in a hazardous financial condition pursuant to K.S.A. 40-222d, and amendments thereto; or

(2) placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(l) "Health benefit plan" means any hospital or medical expense policy, health, hospital or medical service corporation contract, ~~and a plan provided by a municipal group-funded pool, or a health maintenance organization contract offered by an employer or any certificate issued under any such policies, contracts or plans.~~ "Health benefit plan" also includes a cafeteria plan authorized by 26 U.S.C. ~~section § 125 which that~~ offers the option of receiving health insurance coverage through a high deductible health plan and the establishment of a health savings account. In order for an eligible individual to obtain a high deductible health plan through the cafeteria plan, such individual shall present evidence to the employer that such individual has established a health savings account in compliance with 26 U.S.C. ~~section § 223, and any amendments and regulations promulgated thereunder.~~ "Health benefit plan" does not

include policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(m) "Health savings account" ~~shall have the same meaning ascribed to it~~ means the same as in subsection (d) of 26 U.S.C. section § 223(d).

(n) "High deductible health plan" ~~shall mean~~ means a policy or contract of health insurance or health care plan that meets the criteria established in ~~subsection (e) of 26 U.S.C. section § 223(c)~~ and any regulations promulgated thereunder.

(o) "Index rate" means, for each class of business as to a rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(p) "Initial enrollment period" means the period of time specified in the health benefit plan during which an individual is first eligible to enroll in a small employer health benefit plan. Such period shall be no less favorable than a period beginning on the employee's or member's date of initial eligibility and ending 31 days thereafter.

(q) "Late enrollee" means an eligible employee or dependent who requests enrollment in a small employer's health benefit plan following the initial enrollment period provided under the terms of the first plan for which such employee or dependent was eligible through such small employer, however an eligible employee or dependent shall not be considered a late enrollee if:

(1) The individual:

(A) Was covered under another employer-provided health benefit plan or was covered under section 607(1) of the employee retirement income security act of 1974 (ERISA) at the time the individual was eligible to enroll;

(B) states in writing, at the time of the initial eligibility, that coverage under another employer health benefit plan was the reason for declining enrollment but only if the group policyholder or the accident and sickness issuer required such a written statement and provided the individual with notice of the requirement for a written statement and the consequences of such written statement;

(C) has lost coverage under another employer health benefit plan or under section 607(1) of the employee retirement income security act of 1974 (ERISA) as a result of the termination of employment, reduction in the number of hours of employment, termination of employer contributions toward such coverage, the termination of the other plan's coverage, death of a spouse, or divorce or legal separation; and

(D) requests enrollment within 63 days after the termination of coverage under another employer health benefit plan; or

(2) the individual is employed by an employer who offers multiple health benefit plans and the individual elects a different health benefit plan during an open enrollment period; or

(3) a court has ordered coverage to be provided for a spouse or minor child under a covered employee's plan.

(r) "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered, or which could have been charged

or offered, by the small employer carrier to small employers with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(s) "Preexisting conditions exclusion" means a policy provision which excludes or limits coverage for charges or expenses incurred during a specified period not to exceed 90 days following the insured's effective date of enrollment as to a condition, whether physical or mental, regardless of the cause of the condition for which medical advice, diagnosis, care or treatment was recommended or received in the six months immediately preceding the effective date of enrollment.

(t) "Premium" means moneys paid by a small employer or eligible employees or both as a condition of receiving coverage from a small employer carrier, including any fees or other contributions associated with the health benefit plan.

(u) "Rating period" means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect but any period of less than one year shall be considered as a full year.

(v) "Waiting period" means a period of time after full-time employment begins before an employee is first eligible to enroll in any applicable health benefit plan offered by the small employer.

(w) "Small employer" means any person, firm, corporation, or partnership or association eligible for group sickness and accident insurance pursuant to subsection (a) of K.S.A. 40-2209, and amendments thereto, actively engaged in business whose total employed work force consisted of, on at least 50% of its working days during the preceding year, of at least two and no more than 50 eligible employees, the majority of whom were employed within the state. In determining the number of eligible employees, employees participating in an association health plan shall be counted in the aggregate at the association level. Also in determining the number of eligible employees companies ~~which that~~ are affiliated companies ~~or which that~~ are eligible to file a combined tax return for purposes of state taxation, shall be considered one employer. Except as otherwise specifically provided, the provisions of this act which the small employer health insurance availability act apply to a small employer ~~which that~~ has a health benefit plan shall continue to apply until the plan anniversary following the date the employer no longer meets the requirements of this definition.

(x) "Affiliate" or "affiliated" means an entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

(y) "Association health plan" or "AHP" means a coverage for the payment of expenses described in K.S.A. 40-2222, and amendments thereto, offered by a qualified trade, merchant, retail or professional association or business league that complies with the provisions of K.S.A. 40-2222a and 40-2222b, and amendments thereto.

(z) "Qualified trade, merchant, retail or professional association or business league" means any bona fide trade merchant, retail or professional association or business league that: (1) Has been in existence for at least five calendar years; (2) is comprised of five or more employers; and (3) is incorporated in this state, has a principal office located in this state, or has a principal office within a metropolitan area that has boundaries within this state.

Sec. 4. On and after April 1, 2019, K.S.A. 40-2209e is hereby amended to read as follows: 40-2209e. (a) Any individual or group health benefit plan issued to a group authorized by ~~subsection (a) of~~ K.S.A. 40-2209(a), and amendments thereto, shall be

subject to the provisions of this act if it provides health care benefits covering employees of a small employer and if it meets any one of the following conditions:

(1) Any portion of the premium is paid by a small employer, or any covered individual, whether through wage adjustments, reimbursement, withholding or otherwise;

(2) the health benefit plan is treated by the employer or any of the covered individuals as part of a plan or program for the purposes of section 106 or section 162 of the United States internal revenue code; or

(3) with the permission of the board, the carrier elects to renew or continue a health benefit plan covering employees of an employer who no longer meets the definition of a "small employer."

~~(b) For purposes of this act an aggregation of two or more small employers covered under a trust arrangement or a policy issued to an association of small employers pursuant to K.S.A. 40-2209, and amendments thereto, shall permit employee or member units of more than two but less than 51 employees or members and their dependents to participate in any health benefit plan to which this act applies. Any group which includes employee or member units of 50 or fewer employees shall be subject to the provisions of this act notwithstanding its inclusion of employee or member units with more than 50 employees or members.~~

~~(c)~~—Except as expressly provided in this act, no health benefit plan offered to a small employer shall be subject to:

(1) Any law that would inhibit any carrier from contracting with providers or groups of providers with respect to health care services or benefits;

(2) any law that would impose any restriction on the ability to negotiate with providers regarding the level or method of reimbursing care or services provided under the health benefit plan.

~~(c)~~(c) Individual policies of accident and sickness insurance issued to individuals and their dependents totally independent of any group, association or trust arrangement permitted under K.S.A. 40-2209, and amendments thereto, shall not be subject to the provisions of this act.

Sec. 5. On and after April 1, 2019, K.S.A. 2018 Supp. 40-2222 is hereby amended to read as follows: 40-2222. (a) Any person or other entity ~~which that~~ provides coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement, or otherwise, shall be presumed to be subject to the jurisdiction of the commissioner of insurance unless the person or other entity:

(1) Is a professional association of architects incorporated in Kansas on October 4, 1954, ~~which that~~ provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established November 1, 1986, and complies with K.S.A. 40-2222a, and amendments thereto;

(2) is a professional association of dentists incorporated in Kansas on July 3, 1972, ~~which that~~ provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a an established trust ~~established~~ November 1, 1985, and complies with K.S.A. 40-2222a, and amendments thereto;

(3) (A) is a trade association of banks incorporated in Kansas on August 9, 1978, ~~which that~~ provides coverage for the payment of expenses described herein to or for the

members of the association or dependents through a trust established July 1, 1989, and complies with K.S.A. 40-2222a, and amendments thereto; or

(B) is a trade organization of banks incorporated in Kansas on June 1, 1982, ~~which~~ that provides coverage for expenses described herein to or for members of the association or dependents, and complies with K.S.A. 40-2222a, and amendments thereto;

(4) is a trade association of truckers incorporated in Kansas on July 1, 1985, ~~which~~ that provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established January 1, 1990, and complies with K.S.A. 40-2222a, and amendments thereto;

(5) is an association of physicians practicing in the Kansas City metropolitan area, incorporated in Missouri on March 5, 1891, and qualified as a foreign corporation in Kansas on May 19, 1987, ~~which that~~ provides coverage for the payment of expenses described herein to or for the members of the association, their employees and dependents through a trust established November 1, 1984, and complies with K.S.A. 40-2222a, and amendments thereto;

(6) is organized as a farmers' cooperative under the Kansas cooperative marketing act, K.S.A. 17-1601 et seq., and amendments thereto, on January 13, 1983, and is an association of farmers' cooperatives and other like associations operated on a cooperative basis and their affiliated companies, ~~which that~~ provides benefits for employees, and family members of such employees, of such associations, and complies with K.S.A. 40-2222a, and amendments thereto;

(7) is any other qualified trade, merchant, retail, or professional association or business league ~~incorporated in Kansas which that~~ provides coverage for the payment of expenses described herein to or for the members of the association, their employees and dependents and that complies with K.S.A. 40-2222a, and amendments thereto;

(8) conclusively shows by submission of an appropriate certificate, license, letter or other document issued by the United States department of labor that such person or entity is not subject to Kansas law; or

(9) conclusively shows that it is subject to the jurisdiction of an agency of this state or the federal government. For purposes of this act, tax exempt status under section 501(c) of the federal internal revenue code of 1986 shall not be deemed to be jurisdiction of the federal government.

(b) For the purposes of this section, a qualified trade, merchant, retail or professional association or business league ~~shall mean any bona fide trade, merchant, retail or professional association or business league that:~~

(1) ~~Has been in existence for at least five calendar years; and~~

(2) ~~is comprised of five or more employers~~ means the same as in K.S.A. 40-2209d, and amendments thereto.

Sec. 6. On and after April 1, 2019, K.S.A. 2018 Supp. 40-2222a is hereby amended to read as follows: 40-2222a. At the time the initial application for coverage is taken with respect to new applicants and upon the first renewal, reinstatement or extension of coverage following the effective date of this act with respect to persons previously covered, each association described in ~~subsection (a) of~~ K.S.A. 40-2222, and amendments thereto, shall provide a written notice stating that:

(a) The coverage is not provided by an insurance company;

(b) the plan is not subject to the laws and regulations relating to insurance



companies;

(c) the plan is not under the jurisdiction of the commissioner of insurance; and

(d) if the plan does not pay medical expenses that are eligible for payment under the plan for any reason, the individuals covered by the plan may be liable for such expenses.

Sec. 7. On and after April 1, 2019, K.S.A. 2018 Supp. 40-2222b is hereby amended to read as follows: 40-2222b. (a) As a condition precedent to continuation of the exemption provided by K.S.A. 40-2222, and amendments thereto, each association described in ~~subsection (a) of~~ K.S.A. 40-2222, and amendments thereto, shall, no later than May 1 of each year, pay a tax at the rate of 1% per annum upon the annual Kansas gross premium collected during the preceding calendar year. For associations that have a principal office within a metropolitan area that has boundaries in Kansas and associations that have their principal office located within the borders of this state and offer policies to non-residents of Kansas, the tax owed under this section shall be based upon the gross premium collected during the preceding year relating to health benefit plans issued to members that have a principal place of business in Kansas. In the computation of the tax, such associations shall be entitled to deduct any annual Kansas gross premiums returned on account of cancellation or dividends returned to members or expenditures used for the purchase of reinsurance or stop-loss coverage.

(b) Every association subject to taxation under the provisions of this section shall pay the tax imposed and make a return under oath to the commissioner of insurance under such rules and regulations and in such form and manner as the commissioner may prescribe.";

Also on page 15, following line 21, by inserting:

"Sec. 9. On and after April 1, 2019, K.S.A. 40-2209b and 40-2209e and K.S.A. 2018 Supp. 40-2209d, 40-2222, 40-2222a and 40-2222b are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "amending"; in line 2, by striking all before the semicolon and inserting "pertaining to association health plans; jurisdiction of the commissioner; exemption from regulation as small employer health plans; updating requirements, terminology and references related thereto"; in line 3, after "amending" by inserting "K.S.A. 40-2209b and 40-2209e and"; also in line 3, after "40-2209" by inserting ", 40-2209d, 40-2222, 40-2222a and 40-2222b"; in line 4, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Insurance** recommends **HB 2213** be amended on page 2, in line 38, after "policy" by inserting "exceeded the allowed value. The aggregate dollar amount of the fraudulent claims submitted to the insurance company"; and the bill be passed as amended.

Committee on **Taxation** recommends **HB 2160** be amended on page 7, in line 17, by striking all after the period; by striking all in lines 18 through 21 and inserting "On and after July 1, 2019, the countywide retailers' sales tax imposed pursuant to this paragraph may be extended or reenacted for one additional period not to exceed 15 years upon the board of county commissioners of Wabaunsee county submitting such question to the electors at an election called and held thereon as provided by law. For any countywide retailers' sales tax that is extended or reenacted pursuant to this paragraph, such tax shall expire not later than 15 years from the date such tax is first collected."; and the bill be passed as amended.

On motion of Rep. Hawkins, the House recessed until 1:30 p.m.

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AFTERNOON SESSION

The House met pursuant to recess with Speaker pro tem Finch in the chair.

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

**COMMITTEE OF THE WHOLE**

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

Recommended that **HB 2198, HB 2225, HB 2248, HB 2206** be passed.

**HB 2173** be passed over and retain a place on the calendar.

Committee report to **HB 2168** be adopted; and the bill be passed as amended.

Committee report to **HB 2178** be adopted; and the bill be passed as amended.

Committee report to **HB 2185** be adopted; and the bill be passed as amended.

Committee report to **HB 2214** be adopted; and the bill be passed as amended.

Committee report to **HB 2243** be adopted; and the bill be passed as amended.

**REPORT ON ENGROSSED BILLS**

**HB 2006, HB 2031, HB 2084, HB 2126, HB 2147, HB 2167, HB 2239, HB 2290** reported correctly engrossed February 26, 2019.

On motion of Rep. Hawkins, the House adjourned until 9:00 a.m., Wednesday, February 27, 2019.

JENNY HAUGH, JULIA WERNER, *Journal Clerks.*

SUSAN W. KANNARR, *Chief Clerk.*

