

## House Substitute for SENATE BILL No. 98

By Committee on Financial Institutions and Rural Development

3-30

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1 AN ACT concerning financial institutions; enacting the technology-  
2 enabled fiduciary financial institutions act; relating to requirements,  
3 fiduciary powers, duties, functions and limitations for such fiduciary  
4 financial institutions; pilot program; prescribing administrative powers  
5 and duties for the state banking board and the state bank commissioner;  
6 establishing the technology-enabled fiduciary financial institutions  
7 development and expansion fund; providing an income and privilege  
8 tax credit for technology-enabled fiduciary financial institutions  
9 making certain qualified charitable distributions; creating the joint  
10 committee on fiduciary financial institutions oversight.  
11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) The provisions of sections 1 through 26, and  
14 amendments thereto, shall be known and may be cited as the technology-  
15 enabled fiduciary financial institutions act. The technology-enabled  
16 fiduciary financial institutions act shall be a part of and supplemental to  
17 chapter 9 of the Kansas Statutes Annotated, and amendments thereto.

18 (b) For purposes of technology-enabled fiduciary financial  
19 institutions act:

20 (1) "Act" means the technology-enabled fiduciary financial  
21 institutions act;

22 (2) "alternative asset" means professionally managed investment  
23 assets that are not publicly traded, including, but not limited to, private  
24 equity, venture capital, leveraged buyouts, special situations, structured  
25 credit, private debt, private real estate funds and natural resources,  
26 including any economic or beneficial interest therein;

27 (3) "alternative asset custody account" means an account created by  
28 the owner of an alternative asset that designates a fiduciary financial  
29 institution as custodian or agent and into which the client transfers,  
30 electronically or otherwise, content, materials, data, information,  
31 documents, reports and contracts in any form, including, without  
32 limitation, evidence of ownership, subscription agreements, private  
33 placement memoranda, limited partnership agreements, operating  
34 agreements, financial statements, annual and quarterly reports, capital  
35 account statements, tax statements, correspondence from the general  
36 partner, manager or investment advisor of the alternative asset, an

1 investment contract as defined in K.S.A. 17-12a102(28)(E), and  
2 amendments thereto, and any digital asset as defined in K.S.A. 58-4802,  
3 and amendments thereto, whether such information is in hard copy form or  
4 a representation of such information that is stored in a computer readable  
5 format;

6 (4) "charitable beneficiaries" means one or more charities,  
7 contributions to which are allowable as a deduction pursuant to section  
8 170 of the federal internal revenue code that are designated as  
9 beneficiaries of a fidfin trust;

10 (5) "custodial services" means the safekeeping and management of an  
11 alternative asset custody account, including the execution of customer  
12 instructions, serving as agent, fund administrative services and overall  
13 decision-making and management of the account by a fiduciary financial  
14 institution and "custodial services" shall be deemed to involve the exercise  
15 of fiduciary and trust powers;

16 (6) "economic growth zone" means an incorporated community with  
17 a population of not more than 5,000 people located within one of the  
18 following counties: Allen, Anderson, Barber, Bourbon, Brown, Chase,  
19 Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Comanche,  
20 Decatur, Doniphan, Edwards, Elk, Ellsworth, Gove, Graham, Grant, Gray,  
21 Greeley, Greenwood, Hamilton, Harper, Harvey, Haskell, Hodgeman,  
22 Jackson, Jewell, Kearny, Kingman, Kiowa, Labette, Lane, Lincoln, Linn,  
23 Logan, Marion, Marshall, Meade, Mitchell, Montgomery, Morris, Morton,  
24 Nemaha, Neosho, Ness, Norton, Osborne, Ottawa, Pawnee, Phillips, Pratt,  
25 Rawlins, Republic, Rice, Rooks, Rush, Russell, Scott, Sheridan, Sherman,  
26 Smith, Stafford, Stanton, Stevens, Sumner, Trego, Thomas, Wabaunsee,  
27 Wallace, Washington, Wichita, Wilson or Woodson;

28 (7) "excluded fiduciary" means a fiduciary financial institution in its  
29 capacity as trustee of a fidfin trust, provided that a fiduciary financial  
30 institution shall only be deemed an "excluded fiduciary" to the extent the  
31 fiduciary financial institution is excluded from exercising certain powers  
32 under the instrument that may be exercised by the trust advisor or other  
33 persons designated in the instrument;

34 (8) "fidfin," "fidfin services" or "fidfin transactions" means the  
35 financing of a fidfin trust as provided in section 11, and amendments  
36 thereto, including loans, extensions of credit and direct investments;

37 (9) "fidfin trust" means a trust created to facilitate the delivery of  
38 fidfin services by a fiduciary financial institution;

39 (10) "fiduciary" means a trustee, a trust advisor or a custodian of an  
40 alternative asset custody account appointed under an instrument that is  
41 acting in a fiduciary capacity for any person, trust or estate;

42 (11) "instrument" means any document creating a fidfin trust or  
43 alternative asset custody account;

1 (12) (A) "qualified investment" means the purchase or development,  
2 in the aggregate, of at least 10,000 square feet of commercial, industrial,  
3 multiuse or multifamily real estate in the economic growth zone where the  
4 fiduciary financial institution maintains its principal office pursuant to  
5 section 9, and amendments thereto, provided that such community has  
6 committed to develop the necessary infrastructure to support a "qualified  
7 investment." A "qualified investment":

8 (i) May include, as part of satisfying the square footage requirements,  
9 the suitable office space of such fiduciary financial institution, as provided  
10 in section 9, and amendments thereto, if owned by the fiduciary financial  
11 institution;

12 (ii) shall be exempt from the provisions and limitations of K.S.A. 9-  
13 1102, and amendments thereto;

14 (iii) may be retained by a fiduciary financial institution for as long as  
15 the fiduciary financial institution operates in this state; and

16 (iv) may be sold, transferred or otherwise disposed of, including a  
17 sale or transfer to an affiliate of the fiduciary financial institution, if the  
18 fiduciary financial institution continues to maintain its principal office in  
19 an economic growth zone pursuant to section 9, and amendments thereto;

20 (B) notwithstanding the foregoing provisions, if a fiduciary financial  
21 institution leases any portion of a qualified investment made by another  
22 fiduciary financial institution as the lessee fiduciary financial institution's  
23 suitable office space:

24 (i) The lessee fiduciary financial institution shall make, or cause to be  
25 made, a qualified investment in an economic growth zone other than the  
26 economic growth zone where such fiduciary financial institution maintains  
27 its principal office;

28 (ii) the leased square footage shall count toward the square footage  
29 requirement applicable to a qualified investment under this section, if such  
30 lease has an initial term of not less than five years; and

31 (iii) the square footage requirement otherwise applicable to a  
32 qualified investment of the lessee fiduciary financial institution shall be  
33 reduced from 10,000 square feet to 5,000 square feet;

34 (13) "technology-enabled fiduciary financial institution" or "fiduciary  
35 financial institution" means any limited liability company, limited  
36 partnership or corporation that:

37 (A) Is organized to perform any one or more of the activities and  
38 services authorized by this act;

39 (B) has been authorized to conduct business as a fiduciary financial  
40 institution under this chapter pursuant to the provisions of section 2, and  
41 amendments thereto;

42 (C) has made, committed to make or caused to be made a qualified  
43 investment; and

1 (D) has committed, in or as a part of the application provided in  
2 section 2, and amendments thereto, to conduct any fidfin transactions in  
3 accordance with section 11, and amendments thereto, including the  
4 distributions required therein;

5 (14) "trust advisor" means a fiduciary granted authority by an  
6 instrument to exercise, consent, direct, including the power to direct as  
7 provided in K.S.A. 58a-808, and amendments thereto, or approve all or  
8 any portion of the powers and discretion conferred upon the trustee of a  
9 fidfin trust, including the power to invest the assets of a fidfin trust or  
10 make or cause distributions to be made from such fidfin trust; and

11 (15) the definitions of K.S.A. 9-701, and amendments thereto, apply  
12 to fiduciary financial institutions except as otherwise provided in this act.

13 Sec. 2. (a) No fiduciary financial institution shall be organized under  
14 the laws of this state nor engage in fidfin transactions, custodial services or  
15 trust business in this state until the application for such fiduciary financial  
16 institution's organization and the application for certificate of authority  
17 have been submitted to and approved by the state banking board. The form  
18 for making any such application shall be prescribed by the state banking  
19 board and any application made to the state banking board shall contain  
20 such information as the state banking board shall require. Except as  
21 provided in section 24, and amendments thereto, the state banking board  
22 shall not approve any application until January 1, 2024.

23 (b) No bank, trust company or fiduciary financial institution shall  
24 engage in fidfin transactions in this state unless an application has been  
25 submitted under this act and approved by the state banking board.

26 (c) The state banking board shall not accept an application for a  
27 fiduciary financial institution unless the:

28 (1) fiduciary financial institution is organized by at least one person;

29 (2) name selected for the fiduciary financial institution is different or  
30 substantially dissimilar from any other bank, trust company or fiduciary  
31 financial institution doing business in this state;

32 (3) fiduciary financial institutions' articles of organization contain the  
33 names and addresses of the fiduciary financial institution's members and  
34 the number of units subscribed by each. The articles of organization may  
35 contain such other provisions as are consistent with the Kansas revised  
36 limited liability company act, Kansas revised uniform limited partnership  
37 act or Kansas general corporation code;

38 (4) fiduciary financial institution has made, committed to make or  
39 caused to be made a qualified investment as defined in section 1, and  
40 amendments thereto;

41 (5) fiduciary financial institution has committed to structure any  
42 fidfin transactions to ensure that qualified charitable distributions, as  
43 defined in section 27, and amendments thereto, are made each calendar

1 year that the fiduciary financial institution conducts fidfin transactions;  
2 and

3 (6) fiduciary financial institution has consulted or agrees to consult  
4 with the department of commerce regarding the economic growth zones to  
5 be selected for purposes of paragraphs (4) and (5).

6 (d) The state banking board may deny the application if the state  
7 banking board makes an unfavorable determination with regard to the:

8 (1) Financial standing, general business experience and character of  
9 the organizers; or

10 (2) character, qualifications and experience of the officers of the  
11 proposed fiduciary financial institution.

12 (e) The state banking board shall not make membership in any federal  
13 government agency a condition precedent to the granting of the authority  
14 to do business.

15 (f) The state banking board may require fingerprinting of any officer,  
16 director, organizer or any other person of the proposed fiduciary financial  
17 institution related to the application deemed necessary by the state banking  
18 board. Such fingerprints may be submitted to the Kansas bureau of  
19 investigation and the federal bureau of investigation for a state and  
20 national criminal history record check. The fingerprints shall be used to  
21 identify the person and to determine whether the person has a record of  
22 arrests and convictions in this state or other jurisdictions. The state  
23 banking board may use information obtained from fingerprinting and the  
24 criminal history for purposes of verifying the identification of the person  
25 and in the official determination of the qualifications and fitness of the  
26 persons associated with the applicant fiduciary financial institution to be  
27 issued a charter. Whenever the state banking board requires fingerprinting,  
28 any associated costs shall be paid by the applicant or the parties to the  
29 application.

30 (g) The state banking board or the commissioner shall notify a  
31 fiduciary financial institution of the approval or disapproval of an  
32 application. Any final action of the state banking board approving or  
33 disapproving an application shall be subject to review in accordance with  
34 the Kansas judicial review act.

35 (h) (1) In the event such application is approved, the fiduciary  
36 financial institution shall be issued a charter upon compliance with any  
37 requirements of this act and upon demonstrating to the satisfaction of the  
38 commissioner that an applicable distribution has been made. For purposes  
39 of this section, "applicable distribution" means a distribution of cash,  
40 beneficial interests or other assets having an aggregate value equal to the  
41 greater of:

42 (A) 2.5% of the aggregate financing balances to be held by the  
43 fiduciary financial institution immediately upon issuance of the fiduciary

1 financial institution's charter, as reflected in the fiduciary financial  
2 institution's application filed pursuant to this section; or

3 (B) \$5,000,000 in accordance with subsection (i), except that if a  
4 fiduciary financial institution is chartered to provide only custodial  
5 services, the applicable distribution amount shall be \$500,000.

6 (2) If the amount provided in paragraph (1)(B) exceeds the amount  
7 provided in paragraph (1)(A), the fiduciary financial institution shall be  
8 entitled to a credit against the amount distributable under section 11(e),  
9 and amendments thereto, in an amount equal to such excess.

10 (i) The applicable distribution required under subsection (h) shall be  
11 distributed as follows:

12 (1) (A) To the department of commerce:

13 Applicable distribution amount	Percentage to department of commerce
14 \$0 to \$500,000	90%
15 \$500,001 to \$1,000,000	50%
16 Above \$1,000,000	10%

17 (B) the amounts specified in subparagraph (A) shall apply to  
18 fiduciary financial institutions chartered prior to January 1, 2024. For  
19 fiduciary financial institutions chartered after such date, the department of  
20 commerce may publish one or more schedules in the Kansas register as the  
21 department of commerce deems reasonably necessary to facilitate  
22 economic growth and development in one or more economic growth  
23 zones. No such schedule shall be effective until after its publication in the  
24 Kansas register. The department of commerce shall timely submit to the  
25 commissioner any schedule published under this section. The  
26 commissioner shall provide a copy of such schedule to any applicant for a  
27 fiduciary financial institution charter prior to the issuance of such charter.  
28 A fiduciary financial institution shall be subject to the schedule in  
29 existence on the date such fiduciary financial institution's charter is issued  
30 and shall not be subject to any schedules published after such date;

31 (C) the department of commerce shall remit all distributions under  
32 this subsection to the state treasurer in accordance with the provisions of  
33 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
34 remittance, the state treasurer shall deposit the entire amount in the state  
35 treasury to the credit of the technology-enabled fiduciary financial  
36 institutions development and expansion fund established in section 23, and  
37 amendments thereto; and

38 (2) the balance of the applicable distribution required under  
39 subsection (h) shall be distributed to one or more qualified charities as  
40 defined in section 27, and amendments thereto, as shall be selected by the  
41 fiduciary financial institution. Nothing in this section shall preclude a  
42 distribution to one or more qualified charities in excess of the amounts  
43 provided in this section. A qualified charity receiving distributions under

1 this section shall not be an owner of any fiduciary financial institution's  
2 property or assets. A qualified charity shall not be liable for any losses of  
3 the fiduciary financial institution and shall not be subject to the  
4 disgorgement or return of any distributions once received.

5 Sec. 3. (a) Every fiduciary financial institution shall be assessed an  
6 initial fee of \$500,000 to be remitted concurrently with the issuance of  
7 such fiduciary financial institution's charter. The expense of every annual  
8 regular fiduciary financial institution examination, together with the  
9 expense of administering fiduciary financial institution laws, including  
10 salaries, travel expenses, third-party fees for consultants or other entities  
11 necessary to assist the commissioner, supplies and equipment, shall be  
12 paid by the fiduciary financial institutions of this state. Prior to third-party  
13 fees for consultants or other entities necessary to assist the  
14 commissioner, the beginning of each fiscal year, the commissioner shall  
15 make an estimate of the trust expenses to be incurred by the office of the  
16 state bank commissioner during such fiscal year in an amount not less than  
17 \$1,000,000. The commissioner shall allocate and assess each fiduciary  
18 financial institution in this state on the basis of such fiduciary financial  
19 institution's total fidfin transaction balances, consisting of the aggregate  
20 fidfin financing balances of the fiduciary financial institution reflected in  
21 the last December 31 report filed with the commissioner pursuant to  
22 K.S.A. 9-1704, and amendments thereto. If a fiduciary financial institution  
23 has no fidfin transaction balances, but such fiduciary financial institution  
24 otherwise providing custodial services or trust services, the commissioner  
25 shall allocate and assess such fiduciary financial institution in a manner the  
26 commissioner deems reasonable and appropriate. A fiduciary financial  
27 institution that has no fidfin transaction balances and no alternative asset  
28 custody accounts reflected in the last December 31 report filed with the  
29 commissioner may be granted inactive status by the commissioner. The  
30 annual assessment shall not exceed \$10,000 for such an inactive fiduciary  
31 financial institution. The annual fee shall be first assessed for the year  
32 immediately following the year the fiduciary financial institution received  
33 a certificate of authority to engage in fidfin transactions, custodial services  
34 and trust business and for each year thereafter.

35 (b) (1) A statement of each assessment made under the provisions of  
36 subsection (a) shall be sent by the commissioner on December 1 or the  
37 next business day thereafter to each fiduciary financial institution. The  
38 assessment may be collected by the commissioner as needed and in such  
39 installment periods as the commissioner deems appropriate, but not more  
40 frequently than monthly. When the commissioner issues an invoice to  
41 collect the assessment, payment shall be due within 15 business days of  
42 the date of such invoice. The commissioner may impose a penalty upon  
43 any fiduciary financial institution that fails to pay its annual assessment

1 when it is more than 15 business days past due. The penalty shall be  
2 assessed in the amount of \$50 for each day the assessment is past due.

3 (2) The commissioner shall remit all moneys received from such fees  
4 and assessments to the state treasurer in accordance with the provisions of  
5 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
6 remittance, the state treasurer shall deposit the entire amount in the state  
7 treasury and credit 75% of each remittance to the bank commissioner fee  
8 fund and 25% to the technology-enabled fiduciary financial institutions  
9 development and expansion fund established in section 23, and  
10 amendments thereto.

11 Sec. 4. (a) To the extent a conflict does not exist between this act and  
12 chapter 9 of the Kansas Statutes Annotated, and amendments thereto, the  
13 provisions of chapter 9 of the Kansas Statutes Annotated, and amendments  
14 thereto, shall apply to a fiduciary financial institution in the same manner  
15 as it applies to a trust company except that references in chapter 9 to:

- 16 (1) "Capital stock" includes membership capital and partner capital;
- 17 (2) "stock" includes membership units and partnership interests;
- 18 (3) "common stock" includes common units and common interests;
- 19 (4) "preferred stock" includes preferred units and preferred interests;
- 20 (5) "stockholders" includes members and partners;
- 21 (6) "articles of incorporation" includes articles of organization and  
22 articles of limited partnership;
- 23 (7) "incorporation" includes organization;
- 24 (8) "corporation" includes company and partnership;
- 25 (9) "corporate" includes company and partnership;
- 26 (10) "trust business" and "business of a trust company" includes  
27 fidfin and fiduciary financial institution business; and
- 28 (11) K.S.A. 9-901a(a), and amendments thereto, means section 5, and  
29 amendments thereto.

30 (b) If any conflict exists between any provisions of chapter 9 of the  
31 Kansas Statutes Annotated, and amendments thereto, and this act, the  
32 provisions of this act shall control.

33 Sec. 5. (a) For purposes of this section, "capital" means the total of  
34 the aggregate par value of a fiduciary financial institution's outstanding  
35 membership units, its surplus and its undivided profits.

36 (b) (1) The required capital for fiduciary financial institutions shall at  
37 all times be \$250,000 when:

38 (A) The fiduciary financial institution does not accept deposits, other  
39 than alternative asset custody accounts;

40 (B) the fiduciary financial institution maintains no third-party debt  
41 except debts owed to the members of the fiduciary financial institution or  
42 affiliates of the fiduciary financial institution; and

43 (C) the fiduciary financial institution has secured an agreement from



1 its members whereby such members agree to contribute additional capital  
2 to the fiduciary financial institution if needed to ensure the safety and  
3 soundness of the fiduciary financial institution. A fiduciary financial  
4 institution that fails to satisfy the foregoing requirements shall be subject  
5 to the capitalization requirements of K.S.A. 9-901a, and amendments  
6 thereto, applicable to trust companies.

7 (2) The capital of a fiduciary financial institution shall be divided,  
8 with 60% of the amount as the aggregate par value of outstanding  
9 membership units, 30% as surplus and 10% as undivided profits.

10 Sec. 6. (a) The business of any fiduciary financial institution shall be  
11 managed and controlled by such fiduciary financial institution's board of  
12 directors.

13 (b) The board shall consist of not less than five nor more than 25  
14 members who shall be elected by the members at any regular annual  
15 meeting to be held on the date specified in the fiduciary financial  
16 institution's operating agreement or bylaws. At least one director must be a  
17 resident of this state.

18 (c) If, for any reason, the meeting cannot be held on the date specified  
19 in the operating agreement or bylaws, the meeting shall be held on a  
20 subsequent day within 60 days of the day fixed, to be designated by the  
21 board of directors or, if the directors fail to fix the day, by the members  
22 representing  $\frac{2}{3}$  of the membership units.

23 (d) In all cases, at least 10 days' notice of the date for the annual  
24 meeting shall be given to the members.

25 (e) The annual meeting of a fiduciary financial institution shall be  
26 held in this state. Any other meetings of the fiduciary financial institution's  
27 management or directors, including the meeting required pursuant to  
28 K.S.A. 9-1116, and amendments thereto, may be held in any location  
29 determined by the fiduciary financial institution's officers or directors.

30 (f) Any newly created directorship shall be approved and elected by  
31 the members in the manner provided in the fiduciary financial institution's  
32 organizational documents or, in the absence of such provisions, in the  
33 manner provided by the Kansas revised limited liability company act,  
34 Kansas revised uniform limited partnership act or Kansas general  
35 corporation code. A special meeting of the members may be convened at  
36 any time for such purpose.

37 (g) Any vacancy in the board of directors may be filled by the board  
38 of directors in the manner provided in the fiduciary financial institution's  
39 organizational documents or, in the absence of such provisions, in the  
40 manner provided by the Kansas revised limited liability company act,  
41 Kansas revised uniform limited partnership act or Kansas general  
42 corporation code.

43 (h) Within 15 days after the annual meeting, the president or cashier

1 of each fiduciary financial institution shall submit to the commissioner a  
2 certified list of members and the number of units owned by each member.  
3 This list of members shall be kept and maintained in the fiduciary financial  
4 institution's main office and shall be subject to inspection by all members  
5 during the business hours of the fiduciary financial institution. The  
6 commissioner may require the list to be filed by electronic means.

7 (i) Each director shall take and subscribe an oath to administer the  
8 affairs of such fiduciary financial institution diligently and honestly and to  
9 not knowingly or willfully permit any of the laws relating to fiduciary  
10 financial institutions to be violated. A copy of each oath shall be retained  
11 by the fiduciary financial institution, in the fiduciary financial institution's  
12 records after the election of any officer or director, for review by the  
13 commissioner's staff during the next examination. The commissioner may  
14 require the oath to be filed by electronic means.

15 (j) Every fiduciary financial institution shall notify the commissioner  
16 of any change in the chief executive officer, president or directors,  
17 including in such fiduciary financial institution's report a statement of the  
18 past and current business and professional affiliations of the new chief  
19 executive officer, president or directors.

20 Sec. 7. (a) A fiduciary financial institution shall make a report to the  
21 commissioner pursuant to the provisions of K.S.A. 9-1704, and  
22 amendments thereto. In making such a report, a fiduciary financial  
23 institution shall report the fiduciary financial institution's fidfin  
24 transactions pursuant to generally accepted accounting principles.

25 (b) In evaluating the safety and soundness of a fiduciary financial  
26 institution, the state banking board and the commissioner shall evaluate a  
27 fiduciary financial institution in the same manner as evaluating a trust  
28 company as required by the state banking code and rules and regulations  
29 adopted thereunder.

30 Sec. 8. A fiduciary financial institution may use in such fiduciary  
31 financial institution's business name or advertising the words "fiduciary  
32 financial institution" or any similar term or phrase, but may not use the  
33 word "bank," "trust company" or any term that tends to imply that the  
34 business is holding out to the public that such fiduciary financial  
35 institution engages in the business of banking or engages in the business of  
36 a trust company, unless the commissioner has approved the use in writing  
37 after finding that the use will not be misleading. No fiduciary financial  
38 institution's business name or advertising shall infer or imply that such  
39 fiduciary financial institution is endorsed by, affiliated with or otherwise  
40 connected to the state of Kansas.

41 Sec. 9. (a) A fiduciary financial institution shall:

42 (1) Maintain suitable office space in an economic growth zone, as  
43 defined in section 1, and amendments thereto, for fidfin transactions,

1 custodial services and trust business and for the storage of, and access to,  
2 fiduciary financial institution records;

3 (2) employ, engage or contract with at least three employees to  
4 provide services for the fiduciary financial institution in Kansas related to  
5 the powers of the fiduciary financial institution and to facilitate the  
6 examinations required by this act; and

7 (3) perform fidfin transactions, custodial services and trust business  
8 in Kansas, and a fiduciary financial institution may also engage in fidfin  
9 transactions, custodial services and trust business in other states to the  
10 extent permitted by applicable law.

11 (b) As used in this section, the term "suitable office space" means at  
12 least 2,000 square feet of class A office space located in an economic  
13 growth zone selected by the fiduciary financial institution that the  
14 fiduciary financial institution utilizes as such fiduciary financial  
15 institution's principal office.

16 (c) The fiduciary financial institution's principal office shall:

17 (1) Be in premises distinct and divided from the office space of any  
18 other entity;

19 (2) be located in an economic growth zone selected by the fiduciary  
20 financial institution;

21 (3) have the name, charter and certificate of authority of the fiduciary  
22 financial institution prominently displayed;

23 (4) have access to premises in or adjacent to the office space  
24 sufficient to facilitate on-site examinations by the state banking board or  
25 commissioner;

26 (5) to the extent the fiduciary financial institution maintains hard  
27 copies of any documents required to be maintained under this chapter,  
28 have a secure fireproof file cabinet that contains all such hard copies; and

29 (6) to the extent the fiduciary financial institution maintains any  
30 record electronically, have a secure computer terminal or other secure  
31 electronic device that provides access to such records, including account  
32 information, as necessary to facilitate an efficient and effective  
33 examination.

34 (d) Fidfin transactions, custodial services and trust business is  
35 deemed to have been performed in Kansas for purposes of this section if  
36 fidfin transaction or custodial service agreements are approved or signed  
37 in this state on behalf of the fiduciary financial institution and at least three  
38 of the following acts are performed by a technology platform wholly or  
39 partly operated in this state:

40 (1) Annual account reviews;

41 (2) annual investment reviews;

42 (3) trust or custodial accounting;

43 (4) account correspondence;

1 (5) reviewing and signing trust account or custodial account tax  
2 returns; or

3 (6) distributing account statements.

4 Sec. 10. (a) Any fiduciary financial institution is hereby authorized to  
5 exercise by its board of directors or duly authorized officers or agents,  
6 subject to law, the following powers:

7 (1) To engage in fidfin transactions in accordance with section 11,  
8 and amendments thereto;

9 (2) to receive, retain and manage alternative asset custody accounts in  
10 accordance with section 13, and amendments thereto; and

11 (3) to engage in trust business as defined in K.S.A. 9-701, and  
12 amendments thereto.

13 Sec. 11. (a) If authorized by the terms of an instrument as such term  
14 is defined in section 1, and amendments thereto, a fiduciary financial  
15 institution may:

16 (1) Extend financing or extensions of credit to a fidfin trust when:

17 (A) The fiduciary financial institution serves as trustee of the  
18 borrowing fidfin trust;

19 (B) the financing is collateralized or supported by the assets of such  
20 fidfin trust;

21 (C) the financing is nonrecourse as to the fiduciary financial  
22 institution's customer and is not otherwise guaranteed by such customer;

23 (D) the fiduciary financial institution agrees, in the applicable  
24 financing agreement or other written document, that the fiduciary financial  
25 institution is providing financing in a fiduciary capacity;

26 (E) the fiduciary financial institution agrees that such fiduciary  
27 financial institution will manage the collateral or assets underlying the  
28 financing in a fiduciary capacity; and

29 (2) acquire or invest in an alternative asset on behalf of and through a  
30 fidfin trust.

31 (b) The financing of a fidfin trust pursuant to subsection (a)(1) and  
32 (a)(2) shall be considered a fiduciary finance or fidfin transaction.

33 (c) If authorized or directed by the terms of an instrument, no  
34 fiduciary financial institution shall be deemed to have a conflict of interest,  
35 to have violated a duty to a fidfin trust or the beneficiaries thereof or to  
36 have engaged in self-dealing by entering into a fidfin transaction.

37 (d) The combination rules of K.S.A. 9-1104(f), and amendments  
38 thereto, shall be inapplicable to a fiduciary financial institution's fidfin  
39 transactions regardless of the identity of the fidfin trust beneficiary if:

40 (1) The borrower is a fidfin trust; and

41 (2) the fiduciary financial institution serves as trustee of the  
42 borrowing fidfin trust.

43 (e) A fiduciary financial institution that engages in a fidfin transaction

1 shall be a fiduciary. Subject to the duties and standards of utmost care and  
 2 loyalty that are associated with serving as a fiduciary, a fiduciary financial  
 3 institution shall be deemed to be exercising fiduciary powers. All income  
 4 generated by such fidfin transactions, including interest and investment  
 5 income, shall be deemed to be income derived from the exercise of such  
 6 fiduciary powers.

7 (f) A fiduciary financial institution that engages in fidfin transactions  
 8 shall distribute, cause to be distributed or otherwise facilitate the  
 9 distribution of the required distribution amount as provided by this section.  
 10 For purposes of this section, "required distribution amount" means cash,  
 11 beneficial interests or other assets with a value equal to 2.5% of such  
 12 fiduciary financial institution's fidfin transactions originated during the  
 13 calendar year. Such transactions shall exclude any renewals, extensions of  
 14 credit or accruals associated with transactions made in a prior calendar  
 15 year, less any credit available to such fiduciary financial institution  
 16 pursuant to section 2, and amendments thereto. The required distribution  
 17 amount shall be distributed as follows:

18 (1) (A) To the department of commerce:

19 Required distribution amount	Percentage to department of commerce
20 \$0 to \$500,000	90%
21 \$500,001 to \$1,000,000	50%
22 Above \$1,000,000	10%

23 (B) the amounts specified in subparagraph (A) shall apply to  
 24 fiduciary financial institutions chartered prior to January 1, 2024. For  
 25 fiduciary financial institutions chartered after such date, the department of  
 26 commerce may publish one or more schedules in the Kansas register as the  
 27 department of commerce deems reasonably necessary to facilitate  
 28 economic growth and development in one or more economic growth  
 29 zones. No such schedule shall be effective until after its publication in the  
 30 Kansas register. The department of commerce shall timely submit any  
 31 schedule published under this section to the commissioner. The  
 32 commissioner shall provide a copy of such schedule to any applicant for a  
 33 fiduciary financial institution charter prior to the issuance of such charter.  
 34 A fiduciary financial institution shall be subject to the schedule in  
 35 existence on the date such fiduciary financial institution's charter is issued  
 36 and shall not be subject to any schedules published after such date;

37 (C) the department of commerce shall remit all distributions under  
 38 this subsection to the state treasurer in accordance with the provisions of  
 39 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
 40 remittance, the state treasurer shall deposit the entire amount in the state  
 41 treasury to the credit of the technology-enabled fiduciary financial  
 42 institutions development and expansion fund established in section 23, and  
 43 amendments thereto; and

1 (2) the balance of the required distribution amount shall be distributed  
2 to one or more qualified charities as defined in section 27, and  
3 amendments thereto, as shall be selected by the fiduciary financial  
4 institution. A qualified charity receiving distributions under this section  
5 shall not be an owner of any fiduciary financial institution's property or  
6 assets. A qualified charity shall not be liable for any losses of the fiduciary  
7 financial institution and shall not be subject to the disgorgement or return  
8 of any distributions once received.

9 (g) The form, treatment and character of fidfin transactions under the  
10 laws of this state shall be respected for all purposes of this act  
11 notwithstanding the treatment or characterization of such transactions  
12 under generally accepted accounting principles or for tax purposes.

13 Sec. 12. (a) Subject to the requirements of section 9(d), and  
14 amendments thereto, a fiduciary financial institution may:

15 (1) Employ attorneys, accountants, investment advisors, agents or  
16 other persons, even if they are affiliated or associated with the fiduciary  
17 financial institution, to advise or assist the fiduciary financial institution in  
18 the performance of such fiduciary financial institution's fidfin transactions,  
19 custodial services and trust business and act without independent  
20 investigation upon such recommendations;

21 (2) employ one or more agents to perform any act of fidfin  
22 transactions, custodial services or trust business;

23 (3) license internet-related services, including web services, software,  
24 mobile applications, technology-enabled platforms and processes to or  
25 from affiliates, third parties, other fiduciary financial institutions and their  
26 affiliates;

27 (4) license fidfin products to or from other fiduciary financial  
28 institutions and their affiliates;

29 (5) perform any services that a fiduciary financial institution is  
30 authorized to perform under the laws of this state on behalf of another  
31 fiduciary financial institution; and

32 (6) employ another fiduciary financial institution to perform any  
33 services that a fiduciary financial institution is authorized to perform under  
34 the laws of this state.

35 (b) A party engaged by a fiduciary financial institution pursuant to  
36 subsection (a) shall not be deemed to have engaged in fidfin transactions,  
37 custodial services or trust business in this state nor shall such party be  
38 deemed a trust service office of the fiduciary financial institution under  
39 K.S.A. 9-2108, and amendments thereto, or a trust facility or out-of-state  
40 facility under K.S.A. 9-2111, and amendments thereto, by reason of  
41 providing services to a fiduciary financial institution or licensing products,  
42 platforms, systems or processes to such fiduciary financial institution.

43 (c) A fiduciary financial institution that provides services or licenses

1 fidfin products pursuant to subsection (a) shall not be deemed a trust  
2 service office of the fiduciary financial institution that has acquired such  
3 services or licensed such products.

4 (d) If a fiduciary financial institution offers its technology-enabled  
5 platform to provide fidfin services to residents of other states, neither the  
6 marketing, use and deployment of such platform by parties in other states  
7 nor the origination of fidfin services through such platform shall constitute  
8 an out- of-state trust facility under K.S.A. 9-2111, and amendments  
9 thereto, if the fiduciary financial institution complies with the provisions  
10 of section 9, and amendments thereto.

11 (e) A fiduciary financial institution shall provide notice to the  
12 commissioner pursuant to the provisions of K.S.A. 9-2103(a)(12), and  
13 amendments thereto, if such fiduciary financial institution engages a party  
14 pursuant to the provisions of subsection (a).

15 Sec. 13. (a) A fiduciary financial institution may serve as a custodian,  
16 which may include serving as a qualified custodian, as defined by the  
17 United States securities and exchange commission in 17 C.F.R. §  
18 275.206(4)-2, of an asset custody account. In performing custodial  
19 services under this section, a fiduciary financial institution shall:

20 (1) Implement all accounting, account statement, internal control,  
21 notice and other standards specified by applicable state or federal law and  
22 rules and regulations for custodial services;

23 (2) maintain information technology best practices relating to  
24 alternative assets held in custody;

25 (3) fully comply with applicable federal anti-money laundering,  
26 customer identification and beneficial ownership requirements; and

27 (4) take other actions necessary to comply with the requirements of  
28 this section.

29 (b) Alternative asset custody accounts over which a fiduciary  
30 financial institution serves as a custodian or qualified custodian are not  
31 depository liabilities or assets of the fiduciary financial institution.

32 (c) In performing custodial services under this section:

33 (1) A fiduciary financial institution shall be a fiduciary and shall be  
34 subject to the duties and standards of utmost care and loyalty that are  
35 associated with serving as a fiduciary;

36 (2) a fiduciary financial institution shall be deemed to be exercising  
37 fiduciary powers; and

38 (3) all income earned by a fiduciary financial institution and derived  
39 from performing custodial services shall be deemed to be income derived  
40 from the exercise of fiduciary powers.

41 Sec. 14. Any instrument providing for a trust advisor may also  
42 provide such trust advisor with some, none or all of the rights, powers,  
43 privileges, benefits, immunities or authorities available to a trustee under

1 Kansas law or under such instrument. Unless the instrument provides  
2 otherwise, a trust advisor has no greater liability to any person than would  
3 a trustee holding or benefiting from the rights, powers, privileges, benefits,  
4 immunities or authority provided or allowed by the instrument to such  
5 trust advisor.

6 Sec. 15. (a) An excluded fiduciary is not liable, either individually or  
7 as a fiduciary, for any of the following:

8 (1) Any loss that results from compliance with a direction of the trust  
9 advisor, including any loss from the trust advisor breaching fiduciary  
10 responsibilities or acting beyond the trust advisor's scope of authority; or

11 (2) any loss that results from a failure to take any action proposed by  
12 an excluded fiduciary that requires a prior authorization of the trust advisor  
13 if such excluded fiduciary timely sought but failed to obtain such  
14 authorization.

15 (b) Any excluded fiduciary is relieved from any obligation to review  
16 or evaluate any direction from a trust advisor to make distributions or to  
17 perform investment or suitability reviews, inquiries or investigations or to  
18 make recommendations or evaluations with respect to any investments to  
19 the extent the trust advisor had authority to direct the acquisition,  
20 disposition or retention of the investment. If the excluded fiduciary offers  
21 such recommendations or evaluations to the trust advisor or any  
22 investment person selected by the trust advisor, such action shall not  
23 constitute an undertaking by the excluded fiduciary to monitor or  
24 otherwise participate in actions within the scope of the advisor's authority  
25 or to constitute any duty to do so.

26 (c) Any excluded fiduciary is also relieved of any duty to  
27 communicate with or warn or apprise any beneficiary or third party  
28 concerning instances in which the excluded fiduciary would or might have  
29 exercised the excluded fiduciary's own discretion in a manner different  
30 from the manner directed by the trust advisor.

31 (d) Absent contrary provisions in the governing instrument, the  
32 actions of the excluded fiduciary, such as any communications with the  
33 trust advisor and others and carrying out, recording and reporting actions  
34 taken at the trust advisor's direction, pertaining to matters within the scope  
35 of authority of the trust advisor, shall be deemed to be administrative  
36 actions taken by the excluded fiduciary solely to allow the excluded  
37 fiduciary to perform those duties assigned to the excluded fiduciary under  
38 the governing instrument. Such administrative actions shall not constitute  
39 an undertaking by the excluded fiduciary to monitor, participate or  
40 otherwise take any fiduciary responsibility for actions within the scope of  
41 authority of the trust advisor.

42 (e) In any action against an excluded fiduciary pursuant to the  
43 provisions of this section, the burden to prove the matter by clear and



1 convincing evidence is on the person seeking to hold the excluded  
2 fiduciary liable.

3 Sec. 16. (a) A trust advisor shall be presumed to be a fiduciary when  
4 exercising such trust advisor's authority under this act.

5 (b) By accepting an appointment to serve as a trust advisor of a fidfin  
6 trust or an alternative asset custody account that is subject to the laws of  
7 this state, the trust advisor submits to the jurisdiction of the courts of  
8 Kansas even if investment advisory agreements or other related  
9 agreements provide otherwise. The trust advisor may be made a party to  
10 any action or proceeding relating to a decision or action of the trust  
11 advisor.

12 (c) An instrument may appoint an individual, corporation or limited  
13 liability company as the trust advisor of a fidfin trust or an alternative asset  
14 custody account.

15 Sec. 17. (a) If an entity is appointed as a trust advisor, the provisions  
16 of article 8 of chapter 9 of the Kansas Statutes Annotated, and amendments  
17 thereto, shall not apply to such entity, if the entity:

18 (1) Is established for the exclusive purpose of acting as a trust  
19 advisor;

20 (2) is acting in such capacity under an instrument that names a  
21 fiduciary financial institution as trustee or custodian;

22 (3) is not engaged in trust business with the general public as a public  
23 trust company or with any family as a private trust company;

24 (4) does not hold itself out as being in the business of acting as a  
25 fiduciary for hire as either a public or private trust company; and

26 (5) agrees to be subject to examination by the office of the state bank  
27 commissioner at the discretion of the commissioner.

28 (b) The governing documents of any such entity shall limit such  
29 entity's authorized activities to those of a trust advisor and shall further  
30 limit the performance of such functions to only fidfin trusts and alternative  
31 asset custody accounts. An entity complying with this section shall notify  
32 the commissioner of such entity's existence and capacity to act.

33 Sec. 18. An instrument may relieve and indemnify a trust advisor and  
34 a fiduciary financial institution that serves as trustee of a fidfin trust or  
35 alternative asset custody account from liability for a breach of fiduciary  
36 duty to the extent that the breach of fiduciary duty is not committed in bad  
37 faith, intentionally or with reckless indifference to the interest of a  
38 beneficiary.

39 Sec. 19. (a) Notwithstanding the provisions of K.S.A. 58a-708, and  
40 amendments thereto, if the terms of a fidfin trust specify the trustee's  
41 compensation, such trustee is entitled to be compensated as provided in  
42 such terms, except that compensation may be increased or decreased upon  
43 approval by the trustee and by unanimous consent of the beneficiaries.

1 (b) If the terms of a fidfin trust specify the trustee's compensation, the  
2 trustee is entitled to be compensated as specified, except that the court may  
3 allow more compensation if:

4 (1) The duties of the trustee are substantially different from those  
5 contemplated when the trust was created; or

6 (2) the compensation specified by the terms of the trust would be  
7 unreasonably low.

8 Sec. 20. The privacy of those who have established a fidfin trust or  
9 alternative asset custody account shall be protected in any court  
10 proceeding concerning such trust if the acting trustee, custodian, trustor or  
11 any beneficiary so petition the court. Upon the filing of such a petition, the  
12 instrument, inventory, statement filed by any trustee or custodian, annual  
13 verified report of the trustee or custodian, final report of the trustee or  
14 custodian and all petitions relevant to trust administration and all court  
15 orders thereon shall be sealed upon filing and shall not be made a part of  
16 the public record of the proceeding, except that such petition shall be  
17 available to the court, the trustor, the trustee, the custodian, any  
18 beneficiary, their attorneys and to such other interested persons as the  
19 court may order upon a showing of need.

20 Sec. 21. (a) Pursuant to K.S.A. 9-1713, and amendments thereto, the  
21 commissioner shall adopt rules and regulations on or before July 1, 2022,  
22 as are necessary to administer this act. Such rules and regulations shall  
23 apply the same safety and soundness standards for fiduciary financial  
24 institutions as for trust companies under the state banking code.

25 (b) The office of the state bank commissioner may enter into  
26 contracts for technical assistance and professional services as are  
27 necessary to administer the provisions of this act and to meet the deadline  
28 for the adoption of rules and regulations provided by this section. Such  
29 contracts shall be exempt from the requirements of K.S.A. 75-3739, 75-  
30 37,102 and 75-37,132, and amendments thereto, or any other statute  
31 relating to the procurement of such services.

32 Sec. 22. Notwithstanding the provisions of chapter 16 of the Kansas  
33 Statutes Annotated, and amendments thereto, to the contrary, or any other  
34 statute, there is no maximum interest rate or charge or usury rate  
35 restriction between or among a fiduciary financial institution and a fidfin  
36 trust if the interest rate or charge is established by written agreement. A  
37 "written agreement" means a document in writing, whether in physical or  
38 electronic form, in which the parties have demonstrated their agreement to  
39 the terms and conditions of an extension of credit, including the rate of  
40 interest.

41 Sec. 23. (a) There is hereby established in the state treasury the  
42 technology-enabled fiduciary financial institutions development and  
43 expansion fund to be administered by the secretary of commerce.

1 Expenditures from the fund shall be for the purpose of promoting and  
2 facilitating the development, growth and expansion of fiduciary financial  
3 institutions, fidfin activities and custodial services in the state and to locate  
4 such fiduciary financial institutions' office space in an economic growth  
5 zone as defined in section 1, and amendments thereto. All expenditures  
6 from the technology-enabled fiduciary financial institutions development  
7 and expansion fund shall be made in accordance with appropriation acts  
8 upon warrants of the director of accounts and reports issued pursuant to  
9 vouchers approved by the secretary of commerce or the secretary's  
10 designee.

11 (b) On or before the 10<sup>th</sup> day of each month, the director of accounts  
12 and reports shall transfer from the state general fund to the technology-  
13 enabled fiduciary financial institutions development and expansion fund  
14 interest earnings based on:

15 (1) The average daily balance of moneys in the technology-enabled  
16 fiduciary financial institutions development and expansion fund for the  
17 preceding month; and

18 (2) the net earnings rate for the pooled money investment portfolio  
19 for the preceding month.

20 Sec. 24. (a) On July 1, 2021, the commissioner shall:

21 (1) Grant a provisional, nonoperating fiduciary financial institution  
22 charter to the Beneficient company upon Beneficient company:

23 (A) Filing an application with the commissioner;

24 (B) satisfying the requirements of sections 2(c)(1) through (5), and  
25 amendments thereto;

26 (C) satisfying the requirements of section 2(f), and amendments  
27 thereto; and

28 (D) satisfying the capital requirements imposed under section 5, and  
29 amendments thereto; and

30 (2) designate a community within Harvey county, as selected by  
31 Beneficient fiduciary financial institution, as the first economic growth  
32 zone.

33 (b) On July 1, 2021, the commissioner shall establish a fidfin  
34 fiduciary financial institution pilot program that:

35 (1) Includes the Beneficient company as a participant in such pilot  
36 program;

37 (2) assesses the Beneficient company an initial fee of \$1,000,000 in  
38 lieu of the initial fee provided in section 3, and amendments thereto; and

39 (3) imposes a requirement for the Beneficient company to distribute,  
40 cause to be distributed or otherwise facilitate a distribution of cash,  
41 beneficial interests or other assets having an aggregate value of \$9,000,000  
42 in accordance with the requirements of section 2(i), and amendments  
43 thereto, and such amount shall be construed as the applicable distribution

1 amount for purposes of section 2, and amendments thereto.

2 (c) Upon issuance of the provisional, nonoperating fiduciary financial  
3 institution charter, the Beneficient company shall be subject to all  
4 requirements imposed on fiduciary financial institutions under this act but  
5 may not commence fidfin transactions, custodial services or trust business  
6 in this state until the earlier of:

7 (1) December 31, 2021; or

8 (2) the date the commissioner adopts rules and regulations pursuant  
9 to section 22, and amendments thereto.

10 (d) Notwithstanding the provisions of this section, prior to  
11 December 31, 2021, the Beneficient company may satisfy the applicable  
12 distribution requirement of section 2(i), and amendments thereto, and the  
13 required distribution amount requirement of section 11(f), and  
14 amendments thereto, by placing assets in escrow with one or more  
15 qualified charities except that such funds shall be released when the  
16 Beneficient company is permitted to commence fidfin transactions,  
17 custodial services or trust business.

18 (e) (1) Subject to the provisions of paragraph (2), on or after  
19 December 31, 2021, and the adoption of rules and regulations pursuant to  
20 section 21, and amendments thereto, the state banking board shall approve,  
21 and the commissioner shall issue, a fiduciary financial institution charter to  
22 the Beneficient company.

23 (2) The commissioner may extend the period that the  
24 Beneficient company may not commence fidfin transactions, custodial  
25 services or trust business in this state for a period not to exceed six months  
26 from the date specified in subsection (c) if the commissioner, prior to  
27 December 31, 2021, submits a request for an extension to the chairperson  
28 of the financial institutions and rural development committee of the house  
29 of representatives, the chairperson of the financial institutions and  
30 insurance of the senate and to the Beneficient company identifying the  
31 specific reasons for which such extension is necessary and describes the  
32 time frame in which such specific reasons shall be resolved.

33 (f) On or before January 10, 2022, the office of the state bank  
34 commissioner shall provide a report to the financial institutions and rural  
35 development committee of the house of representatives and the financial  
36 institutions and insurance committee of the senate updating such  
37 committees on the progress of such pilot program. Such report shall  
38 include recommendations from the office of the state bank commissioner  
39 for any legislation necessary to implement the provisions of this act.

40 Sec. 25. Notwithstanding the provisions of K.S.A. 59-3401, and  
41 amendments thereto, no interest held in a fidfin trust shall be void or  
42 invalid by reason of any common law rule, including, but not limited to,  
43 the rule against perpetuities or rule limiting the duration of trusts.

1       Sec. 26. Notwithstanding the provisions of K.S.A. 17-2035, and  
2 amendments thereto, for purposes of any tax imposed by the state or any  
3 instrumentality, agency or political subdivision of this state, a business  
4 trust that is used in connection with fidfin transactions or custodial  
5 services, as defined in section 1, and amendments thereto, and for which a  
6 fiduciary financial institution, as defined in section 1, and amendments  
7 thereto, serves as trustee shall be classified as a corporation, an  
8 association, a partnership, a trust or otherwise, as shall be determined  
9 under the federal internal revenue code.

10       Sec. 27. (a) For taxable years commencing after December 31, 2020,  
11 there shall be allowed as a credit against the tax liability of a fiduciary  
12 financial institution imposed pursuant to the Kansas income tax act or the  
13 privilege tax imposed upon a fiduciary financial institution pursuant to  
14 article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments  
15 thereto, in an amount equal to the qualified charitable distributions made  
16 in connection with the fiduciary financial institution's fidfin activities  
17 during such taxable year if the fiduciary financial institution maintained  
18 such fiduciary financial institution's principal office in an economic  
19 growth zone during such taxable year in accordance with the provisions of  
20 section 9, and amendments thereto.

21       (b) For purposes of this section:

22       (1) "Economic growth zone" and "fidfin" means the same as defined  
23 in section 1, and amendments thereto;

24       (2) "qualified charitable distributions" means distributions of cash,  
25 beneficial interests or other assets to one or more qualified charities having  
26 an aggregate value equal to at least 2.5% of the fiduciary financial  
27 institution's transactions originated during the taxable year. Such  
28 transactions shall exclude any renewals, extensions of credit or accruals  
29 associated with transactions made in a prior taxable year;

30       (3) "qualified charities" means one or more charities, in which  
31 contributions are allowable as a deduction pursuant to section 170 of the  
32 federal internal revenue code if such charities have committed in writing to  
33 utilize the entire amount of the qualified charitable distributions, excluding  
34 reasonable administrative expenses, exclusively for the benefit of:

35       (A) Charitable causes located in one or more economic growth zones;  
36 or

37       (B) postsecondary educational institutions as defined in K.S.A. 74-  
38 3201b, and amendments thereto.

39       (c) No credit shall be allowed under this section if the fiduciary  
40 financial institution's tax return on which the credit is claimed is not timely  
41 filed, including any extension.

42       (d) A distribution or remittance to the department of commerce  
43 pursuant to section 11, and amendments thereto, shall be deemed a

1 qualified charitable distribution for purposes of this section.

2 (e) A fiduciary financial institution shall not be required to ensure that  
3 qualified charitable distributions are made solely for the benefit of the  
4 economic growth zones where such fiduciary financial institution has:

5 (1) Established such fiduciary financial institution's principal office  
6 pursuant to section 9, and amendments thereto; or

7 (2) made qualified investments as defined in section 1, and  
8 amendments thereto. Qualified charitable distributions may be made for  
9 the benefit of any one or more economic growth zones.

10 (f) If a fiduciary financial institution is a pass-through entity for  
11 Kansas tax purposes and the credit allowed by this section for a taxable  
12 year is greater than the fiduciary financial institution's tax liability against  
13 which the tax credit may be applied, a member of the entity is entitled to a  
14 tax credit equal to the tax credit determined for the fiduciary financial  
15 institution for the taxable year in excess of the fiduciary financial  
16 institution's tax liability under the Kansas income tax act or privilege tax  
17 under article 11 of chapter 79 of the Kansas Statutes Annotated, and  
18 amendments thereto, for the taxable year multiplied by the percentage of  
19 the fiduciary financial institution's distributive income to which the  
20 member is entitled.

21 (g) If the amount of a tax credit allowed a member under this section  
22 exceeds the taxpayer's income tax liability for the taxable year in which  
23 the tax credit is allowed, the amount thereof that exceeds such tax liability  
24 may be carried over for deduction from the taxpayer's income or privilege  
25 tax liability in the next succeeding taxable year or years until the total  
26 amount of the tax credit has been deducted from tax liability, except that  
27 no such tax credit shall be carried over for deduction after the 3<sup>rd</sup> taxable  
28 year succeeding the taxable year in which the tax credit is first allowed.

29 (h) In any taxable year, a fiduciary financial institution shall pay the  
30 greater of the qualified charitable distributions made during such taxable  
31 year or the tax liability of a fiduciary financial institution imposed  
32 pursuant to the Kansas income tax act or the privilege tax imposed upon a  
33 fiduciary financial institution pursuant to article 11 of chapter 79 of the  
34 Kansas Statutes Annotated, and amendments thereto.

35 (i) This section shall be a part of and supplemental to the Kansas  
36 income tax act.

37 Sec. 28. (a) There is hereby created the joint committee on fiduciary  
38 financial institutions oversight, which shall be composed of five senators  
39 and eight members of the house of representatives. The five senate  
40 members shall be the chairperson of the standing committee on financial  
41 institutions and insurance of the senate, or a member of such committee  
42 appointed by the chairperson, two members appointed by the president of  
43 the senate and two members appointed by the minority leader. The eight

1 representative members shall be the chairperson of the standing committee  
2 on financial institutions and rural development of the house of  
3 representatives, or a member of such committee appointed by the  
4 chairperson, four members appointed by the speaker of the house of  
5 representatives and three members appointed by the minority leader.

6 (b) All members of the joint committee on fiduciary financial  
7 institutions oversight shall serve for terms ending on the first day of the  
8 regular legislative session in odd-numbered years. On and after the first  
9 day of the regular legislative session in odd-numbered years, the  
10 chairperson shall be one of the representative members of the joint  
11 committee selected by the speaker of the house of representatives, and the  
12 vice-chairperson shall be one of the senate members selected by the  
13 president of the senate. On and after the first day of the regular legislative  
14 session in even-numbered years, the chairperson shall be one of the senate  
15 members of the joint committee selected by the president of the senate and  
16 the vice-chairperson shall be one of the representative members of the  
17 joint committee selected by the speaker of the house of representatives.  
18 The chairperson and vice-chairperson of the joint committee shall serve in  
19 such capacities until the first day of the regular legislative session in the  
20 ensuing year. The vice-chairperson shall exercise all of the powers of the  
21 chairperson in the absence of the chairperson.

22 (c) The joint committee on fiduciary financial institutions oversight  
23 shall meet at any time and at any place within the state on call of the  
24 chairperson. Members of the joint committee shall receive compensation  
25 and travel expenses and subsistence expenses or allowances as provided in  
26 K.S.A. 75-3212, and amendments thereto, when attending meetings of  
27 such committee authorized by the legislative coordinating council.

28 (d) In accordance with K.S.A. 46-1204, and amendments thereto, the  
29 legislative coordinating council may provide for such professional services  
30 as may be requested by the joint committee on fiduciary financial  
31 institutions.

32 (e) The joint committee on fiduciary financial institutions may  
33 introduce such legislation as deemed necessary in performing such  
34 committee's functions.

35 (f) The joint committee on fiduciary financial institutions shall:

36 (1) Monitor, review and make recommendations regarding fiduciary  
37 financial institutions' operations in the state of Kansas;

38 (2) monitor, review and make recommendations regarding the  
39 fiduciary financial institutions pilot program established in section 24, and  
40 amendments thereto; and

41 (3) receive a report from the office of the state bank commissioner  
42 prior to December 31, 2021, providing an update on the implementation of  
43 the technology-enabled fiduciary financial institutions act and the pilot

1 program established in section 24, and amendments thereto. Such report  
2 shall include recommendations from the office of the state bank  
3 commissioner for any legislation necessary to implement the provisions of  
4 the technology-enabled fiduciary financial institutions act.

5 (g) The office of the state bank commissioner shall appear annually  
6 before the committee and shall present a report on the fiduciary financial  
7 institution industry.

8 Sec. 29. This act shall take effect and be in force from and after its  
9 publication in the statute book.