

PRELIMINARY SUMMARY OF LEGISLATION 2015 KANSAS LEGISLATURE



This publication contains summaries of selected bills enacted by the Legislature as of 12:00 noon, April 1, 2015. Bills that have not yet been signed by the Governor are included.

A supplement containing summaries of major bills which were enacted after that date will be distributed during the week of April 6, 2015. An additional supplement will be mailed after the wrap-up session in May.

Highlights, a summary of major legislation, will be prepared after the Legislature adjourns and will be mailed to legislators as soon as possible. *The Summary of Legislation*, which accounts for all bills enacted by the 2015 Legislature, will be distributed at a later date.

These documents are available on the Kansas Legislative Research Department's website: <http://www.kslegresearch.org>.

Kansas Legislative Research Department
Room 68-West, Statehouse, 300 SW 10th
Topeka, Kansas 66612-1504

Telephone: (785) 296-3181
Fax: (785) 296-3824
kslegres@klrd.ks.gov

Table of Contents

ABORTION	1
Creation of the Unborn Protection from Dismemberment Act; SB 95.....	1
AGRICULTURE AND NATURAL RESOURCES	4
Domesticated Deer; SB 46.....	4
ALCOHOL, DRUGS, AND GAMBLING	4
Uniform Controlled Substances Act—Adding and Rescheduling Certain Drugs or Drug Classes to Schedules of Controlled Substances; HB 2275.....	4
APPROPRIATIONS	5
FY 2015 Rescission Bill; House Sub. for SB 4.....	5
CONCEALED CARRY	6
Constitutional Carry; SB 45.....	6
EDUCATION	7
K-12 Education Provisions; House Sub. for SB 7.....	7
ENVIRONMENT	11
Environmental Stewardship Fund; HB 2192.....	11
Environmental Remediation; HB 2193.....	11
FINANCIAL INSTITUTIONS	13
Financial Organizations—Kansas Money Transmitter Act and Kansas Mortgage Business Act Amendments; ITMs; and Kansas ABLE Savings Program; HB 2216.....	13
Municipal Indebtedness Reporting Requirements; Temporary Notes; Bonds and Warrants Law; HB 2259.....	19
INSURANCE	21
Life Insurance—Principle-Based Valuation; Standard Nonforfeiture Law; SB 47.....	21
Risk Management and Own Risk and Solvency Assessment Act; SB 76.....	24
Investments by Other Than Life and Life Insurance Companies; HB 2066.....	27
Risk-Based Capital Instructions and Property and Casualty Actuarial Opinion Letter Law; HB 2126.....	28
JUDICIARY	29
Criminal History Record Information—Exclusions; SB 13.....	29
Unlawful Abuse of Toxic Vapors; SB 252.....	29
Criminal History Calculation; HB 2053.....	29
Risk Assessment and Juvenile Offender Placement; HB 2336.....	29
LICENSES, PERMITS, AND REGISTRATIONS	30
Real Estate License Fees; Contractual Relationships; SB 108.....	30
Roofer Registration Act; General Contractors; HB 2254.....	30
LOCAL GOVERNMENT	32
Claims Against Municipal Employees; HB 2246.....	32
STATE GOVERNMENT	33
Repeal of Legislative Division of Post Audit School District Audit Team; SB 8.....	33
Kansas Disaster Utilities Response Act; SB 109.....	33
Land Purchases; SB 120.....	33

Criminal History Checks for Persons Contracted to Work with the Legislative Division of Post Audit; HB 2009.....	34
Continuation of Exceptions to the Kansas Open Records Act; HB 2023.....	34
Notice and Evaluation of Certain Construction Projects; HB 2267.....	35
TRANSPORTATION AND MOTOR VEHICLES.....	36
Safety and Economic Regulation of Commercial Motor Vehicles; SB 21.....	36
Home on the Range Highway; Provisions Relating to Signage; SB 43.....	37
Definitions of Certain Off-Highway Vehicles; SB 73.....	37
Motor Carrier Civil Penalty Procedures; SB 150.....	38
Public Parking Facility; Disabled Veterans; HB 2006.....	38
Kansas Turnpike Authority Contracts and Operations; HB 2085.....	38
Clay County Vietnam Veterans Bridge; HB 2103.....	39

ABORTION

Creation of the Unborn Protection from Dismemberment Act; SB 95

SB 95 creates the Kansas Unborn Child Protection from Dismemberment Abortion Act (Act). The bill defines relevant terms, establishes exceptions for the prohibition on dismemberment abortions, clarifies the individuals exempt from liability for involvement in dismemberment abortions, allows for injunctive relief and civil damages, establishes who may seek civil damages and what the damages include, authorizes the award of reasonable attorney fees, establishes penalties for violation of the Act, specifies the conditions under which the court orders the anonymity of a woman upon whom an abortion has been performed or attempted be preserved from public disclosure, clarifies no right to abortion nor a right to a particular method of abortion would be created, and includes a severability clause. Specific bill details follow.

Definitions

The bill defines several terms, including “abortion” and “dismemberment abortion.” Dismemberment abortion is defined as an abortion “with the purpose of causing the death of an unborn child, knowingly dismembering a living unborn child and extracting such unborn child one piece at a time from the uterus through the use of clamps, grasping forceps, tongs, scissors, or similar instruments that, through the convergence of two rigid levers, slice, crush, or grasp at a portion of the unborn child’s body in order to cut or rip it off.”

The bill establishes dismemberment abortion does not include an abortion that uses suction to dismember the body of an unborn child. The bill clarifies a dismemberment abortion includes the use of suction subsequent to a dismemberment abortion to extract fetal parts after the death of the unborn child. “Medical emergency” and “knowingly” also are defined.

Restrictions on the Performance of a Dismemberment Abortion

The bill prohibits the performance of or the attempt to perform a dismemberment abortion unless the procedure is necessary to preserve the life of the pregnant woman or a continuation of the pregnancy would cause a substantial and irreversible physical impairment of a major bodily function. A claim or diagnosis the woman would engage in conduct resulting in her death or in substantial and irreversible physical impairment of a major bodily function does not allow for a dismemberment abortion under the Act.

Exemption from Liability

The following persons are exempt from liability under the Act:

- The woman upon whom an abortion is performed or attempted;
- A nurse, technician, secretary, receptionist, or other employee or agent who is not a physician, but acts under the direction of a physician; and

- A pharmacist or other individual who is not a physician, but who fills a prescription or provides instruments or materials used in an abortion at the direction of or to a physician.

Available Causes of Action and Damages

The Attorney General or any district or county attorney with appropriate jurisdiction is authorized to bring a cause of action for injunctive relief against a person who performs or attempts to perform a dismemberment abortion in violation of the Act and, if the order is granted, prohibits the defendant from performing or attempting to perform any dismemberment abortions in violation of the Act.

A cause of action for civil damages is available to the following persons against a person who performs a dismemberment abortion in violation of the Act (unless the plaintiff is not the woman upon whom the abortion was performed and the pregnancy is a result of the plaintiff's criminal conduct):

- A woman upon whom a dismemberment abortion is performed in violation of the Act;
- The father of the unborn child, who is married to the woman at the time the dismemberment abortion is performed; or
- The parents or custodial guardians of a woman under 18 years of age at the time of the abortion or who dies as a result of the abortion.

Damages awarded in a cause of action for civil damages include money damages for psychological and physical damages caused by a dismemberment abortion, statutory damages equal to three times the cost of the dismemberment abortion, injunctive relief, and reasonable attorney fees under specified conditions.

In causes of action for injunctive relief, in addition to the awarding of other relief, attorney fees are awarded to a successful plaintiff or to a successful defendant if the court finds the plaintiff's action was frivolous and brought in bad faith. A woman upon whom a dismemberment abortion is performed or attempted is not assessed attorney fees, unless the court finds her action was frivolous or brought in bad faith.

Penalties for Violation of Act

A first conviction for a dismemberment abortion performed or attempted in violation of the Act is a Class A person misdemeanor. A second or subsequent conviction is a severity level 10, person felony.

Anonymity of Woman Absent Consent to Disclose

In every civil, criminal, or administrative proceeding or action arising out of a violation of the conditions under which an abortion on a viable or pain-capable unborn child or a partial birth or a dismemberment abortion may be performed, the court has authority to determine whether

to preserve from public disclosure the anonymity of the woman upon whom the unlawful abortion is performed or attempted if the woman did not consent to the disclosure. Upon a ruling the anonymity of the woman should be preserved, the court is authorized to issue orders to the parties, witnesses, and counsel; direct the record be sealed; and exclude individuals from the courtroom or hearing rooms, as needed, to safeguard her identity from public disclosure.

Orders to preserve the identity of the woman require accompanying specific written findings explaining the need for anonymity, why the order is essential, the narrow tailoring of the order to accomplish anonymity, and why no reasonable less restrictive alternative exists. Unless a woman upon whom an unlawful abortion is performed or attempted consents to the disclosure of her identity, a cause of action for a violation of the conditions under which an abortion on a viable or pain-capable unborn child or a partial birth or dismemberment abortion could be performed, brought by anyone other than a public official, is required to do so under a pseudonym. The anonymity provisions are not to be construed to conceal the identity of the plaintiff or witnesses from the defendant or attorneys for the defendant.

Right to an Abortion not Recognized or Created

The bill does not create or recognize a right to an abortion or to a specific abortion method.

Severability Clause

A holding that a provision or application of the Act is invalid would not affect the validity of the remaining provisions that could be given effect without the invalid provision or application. The provisions of the Act are to be held severable.

AGRICULTURE AND NATURAL RESOURCES

Domesticated Deer; SB 46

SB 46 updates law regarding identification of domesticated cervids (a term meaning all members of the deer family, including elk, moose, and all species of deer) by requiring each animal entering or leaving a premises, either alive or dead, to have official identification, as identified in rules and regulations of the Animal Health Commissioner of the Department of Agriculture. Official identification is not required if the domesticated cervid is moved to a licensed or registered slaughter facility in Kansas.

ALCOHOL, DRUGS, AND GAMBLING

Uniform Controlled Substances Act—Adding and Rescheduling Certain Drugs or Drug Classes to Schedules of Controlled Substances; HB 2275

HB 2275 amends the statutes regulating controlled substances to add several additional drugs or drug classes to the schedules. Specifically, the bill adds a hallucinogenic drug and a cannabinoid to schedule I, reschedules two hydrocodone drugs from schedule III to schedule II, adds perampanel to schedule III, and adds three drugs to schedule IV. The bill also corrects or standardizes spellings or descriptions of several substances.

The bill takes effect upon publication in the *Kansas Register*.

APPROPRIATIONS

FY 2015 Rescission Bill; House Sub. for SB 4

House Sub. for SB 4 contains current year adjustments for FY 2015 expenditures and current year revenue. The bill increases expenditures by \$120.2 million, including \$45.1 million from the State General Fund. The bill also deletes authority for three bond issuances totaling \$90.7 million for the Regents Institutions. The bill also includes transfers and State General Fund reductions to the Legislative and Judicial Branches from the Governor's December 9, 2014, allotment plan that require Legislative approval.

The bill adds \$106.6 million, including \$46.2 million from the State General Fund, to fully fund Human Services Consensus Caseload estimates, adds \$2.9 million from the State General Fund for technical education tuition, and \$2.5 million from the State General Fund for Department of Administration—Office of Information Technology Services to reimburse the federal government for various expenditures.

The bill also includes State General Fund transfer adjustments in FY 2015 totaling \$247.7 million. The largest transfers are \$158.5 million from the State Highway Fund, \$55.0 million from the Medical Program Fees Fund, \$12.0 million from the Kansas Endowment for Youth Fund, and a reduction of \$7.1 million in the transfer to the Job Creation Program Fund.

CONCEALED CARRY

Constitutional Carry; SB 45

SB 45 amends laws concerning the concealed carry of firearms. The bill adds language allowing the concealed carry of a firearm without a concealed carry license issued by the State, as long as that individual is not prohibited from possessing a firearm under either federal or state law. The bill specifies the carrying of a concealed handgun cannot be prohibited in any building unless the building is posted in accordance with rules and regulations adopted by the Attorney General. Concealed carry licenses will still be issued by the State, but the availability of those licenses cannot be construed to prohibit the carrying of handguns without a license, whether carried openly or concealed, loaded or unloaded.

Related to concealed carry licenses, the bill also allows the Attorney General to create a list of concealed carry handgun licenses or permits from other jurisdictions that have training requirements greater than or equal to the Kansas requirements. This list can be used by the Attorney General when reviewing concealed carry license applications and making a determination about whether an individual has completed an approved handgun safety and training course required for issuance of a concealed carry license. The bill also defines “equal to or greater than,” “jurisdiction,” and “license or permit” for the purposes of the new section of law.

The bill amends the definition of “criminal carrying of a weapon” to clarify that it is not legal for anyone under 21 years of age to carry any pistol, revolver, or other firearm concealed on one’s person, except when on such person’s land or in such person’s abode or fixed place of business.

EDUCATION

K-12 Education Provisions; House Sub. for SB 7

House Sub. for SB 7 makes appropriations for K-12 education for fiscal years (FYs) 2015, 2016, and 2017. The bill also repeals the existing school finance formula—the School District Finance and Quality Performance Act—and creates the Classroom Learning Assuring Student Success Act.

Appropriations

Highlights of the appropriations portion of the bill follow.

For FY 2015 (school year 2014-15), the bill adds \$27,346,783 in General State Aid, \$1,803,566 in Supplemental General State Aid (Local Option Budget [LOB] State Aid), and an amount not to exceed \$2,202,500 for the Capital Outlay State Aid demand transfer, all from the State General Fund (SGF). In addition, the bill transfers \$4.0 million from the SGF to a newly created special revenue fund called the School District Extraordinary Need Fund.

For FY 2016 (school year 2015-16), the bill appropriates \$2,751,326,659 from the SGF as a block grant to school districts. (Components of the block grant are described below.) A demand transfer from the SGF to the School District Extraordinary Need Fund will be made in an amount not to exceed \$12,292,000. An SGF appropriation of \$500,000 will be made to the Information Technology Education Opportunities Account (extension of a program to pay for credentialing high school students in information technology fields, funded previously in the Board of Regents' budget).

For FY 2017 (school year 2016-17), the bill appropriates \$2,757,446,624 from the SGF as a block grant to school districts. A demand transfer from the SGF to the School District Extraordinary Need Fund will be made in an amount not to exceed \$17,521,425. An SGF appropriation of \$500,000 will be made to the Information Technology Education Opportunities Account.

The operating budget for the Department of Education also is included in the bill.

Components of the Block Grant for FYs 2016 and 2017

The block grant includes:

- General State Aid school districts are entitled to receive for school year 2014-15, as adjusted by virtual school aid calculations (described below) and a 0.4 percent reduction for an Extraordinary Need Fund;
- Supplemental general state aid and capital outlay state aid as adjusted in 2014-15 (adjustment described below);
- Virtual state aid as recalculated for FYs 2016 and 2017 (described below);

- Amounts attributable to the tax proceeds collected by school districts for the ancillary school facilities tax levy, the cost of living tax levy, and the declining enrollment tax levy; and
- KPERS employer obligations, as certified by KPERS.

General state aid for school year 2014-15 is adjusted to account for consolidated school districts. Adjustments also are made in all school years to ensure districts eligible for the new facilities weighting will receive that weighting as outlined in current law.

General state aid will be disbursed to districts in the same manner as in current law.

Special education funding is not included in the block grant, but is a separate appropriation in the bill.

Extraordinary Need Fund

For FYs 2016 and 2017, 0.4 percent of general state aid will be transferred to the Extraordinary Need Fund. Any unencumbered funds remaining in this Fund at the end of the fiscal year will be transferred back to the SGF. Districts can apply to the State Finance Council for payments from this Fund. In reviewing a district's application for payment from the Fund, the Finance Council will consider:

- Any extraordinary increase in enrollment;
- Any extraordinary decrease in the district's assessed valuation; and
- Any other unforeseen acts or circumstances substantially impacting a district's general fund.

Recalculation of Supplemental General State Aid (LOB State Aid)

LOB State Aid is recalculated based on quintiles below the 81.2 percentile of school districts' assessed valuation per pupil (AVPP) in school year 2014-15 and capped at that amount for subsequent school years with gradations as follows based on AVPP, beginning with the districts with the lowest AVPP. (Each quintile equals about 46 school districts.)

- Lowest quintile – 97 percent of LOB State Aid;
- Second lowest quintile – 95 percent of LOB State Aid;
- Middle quintile – 92 percent of LOB State Aid;
- Second highest quintile – 82 percent of LOB State Aid; and
- Highest quintile – 72 percent of LOB State Aid.

Districts continue to be authorized to adopt a LOB and levy a property tax in an amount not to exceed the LOB of the district in school year 2014-15, unless the district approves a higher amount for school year 2015-16, prior to July 1, 2015.

Recalculation of Capital Outlay State Aid

The state aid percentage begins at 75 percent for the district with the lowest AVPP and decreases by 1 percent for each \$1,000 incremental increase in AVPP.

Bond and Interest State Aid

The bill amends the calculation of state aid for general obligation bonds approved for issuance at an election held on or after July 1, 2015, using the same formula as the amended Capital Outlay State Aid formula.

Virtual State Aid

In school year 2014-15, there is no change in the calculation of Virtual State Aid.

In school year 2015-16, funding for full-time equivalent students will be calculated at \$5,000 per student; part-time students, \$4,045 per student; and students 19 and older, \$933 per 1-hour credit course successfully completed in the school year.

In school year 2016-17, funding for full-time equivalent students will be calculated at \$5,600 per student; part-time students, \$1,700 per student; and students 19 and older, \$933 per 1-hour credit course successfully completed in the school year.

Special Levies

Districts are authorized to impose special local tax levies (for ancillary facilities, cost of living, and declining enrollment), if the district levied such tax in school year 2014-15 or if the district is qualified to levy such tax under current law.

Fund Flexibility

Districts have fund flexibility at the district level; that is, funds can be transferred to the general fund of the district with no cap on the amount of the transfer. Excluded from this flexibility are three funds: bond and interest, special education, and the special retirement contributions fund.

Other Provisions

The bill uses the assessed valuation per pupil for school year 2015-2016 (instead of the current school year) for the purpose of determining Supplemental General State Aid (LOB State Aid) for any district if the district has a total assessed valuation for school year 2015-2016 less than the assessed valuation in the current school year; the difference in assessed valuation between the current school year and 2015-2016 is greater than 25 percent; and having such reduction be the direct result of the classification of tangible personal property by 2014

legislation changing the tax classification of commercial and industrial machinery used directly in the manufacture of cement, lime, or similar products. (KSA 2014 Supp. 79-507)

Effective Dates

The bill takes effect upon publication in the *Kansas Register* with the exceptions noted above. Establishment of the Extraordinary Need Fund, amendments to the LOB equalization formula, capital outlay state aid, approval for LOB authority, and fund flexibility provisions are effective for school year 2014-15.

The provisions of the bill will expire on June 30, 2017.

ENVIRONMENT

Environmental Stewardship Fund; HB 2192

HB 2192 creates the Environmental Stewardship Fund (Fund) in the Department of Health and Environment (KDHE) to pay for remediation activities at contaminated “orphan” sites, *i.e.*, sites with no party responsible for cleanup. It is funded by a portion of the proceeds from the environmental assurance fee, a \$0.01 per gallon fee already being assessed on petroleum products other than aviation fuel. The Fund has an operating minimum of \$2.0 million and a maximum of \$5.0 million.

The bill also creates an incentive program for owners of single-wall underground petroleum tanks who replace those tanks with secondary containment systems. The incentive program will reimburse applicants no more than \$50,000 per facility. The incentives will be paid from the Underground Storage Tank (UST) Redevelopment Fund, up to a maximum of \$3.0 million per fiscal year. As part of this program, KDHE will waive the first costs of corrective action if contamination is discovered during the tank replacement. Essentially, this waives the “deductible” a tank owner must pay before being eligible for UST Trust Fund moneys to assist with cleanup. The Secretary of Health and Environment is authorized to adopt rules and regulations deemed necessary to carry out the program.

Environmental Remediation; HB 2193

HB 2193 establishes the Voluntary Risk Management Program and amends law regarding the Voluntary Cleanup and Property Redevelopment Act.

Voluntary Risk Management Program

The bill establishes the Voluntary Risk Management Program (Program), which will be administered by the Kansas Department of Health and Environment (KDHE) for low-risk contaminated sites. The bill also creates the Risk Management Fund (Fund).

A responsible party who chooses to participate in the Program enters into an enforceable agreement with KDHE to carry out remediation activities agreed to in a risk management plan and pay a one-time fee of at least \$2,500 which would be deposited in the Fund. The Fund can be used to administer the Program and perform necessary remediation activities if one of the sites in the Program becomes orphaned (no responsible party) in the future. A risk management plan can be terminated if KDHE determines the plan is no longer necessary.

The Secretary of Health and Environment is required to adopt rules and regulations to implement the provisions of the Program.

Voluntary Cleanup and Property Redevelopment Act

The bill also amends the Voluntary Cleanup and Property Redevelopment Act (Act), which is administered by the KDHE Bureau of Environmental Remediation. The bill makes the following changes:

- Allows KDHE to issue a determination that no further remedial action is needed at a site based on the results of a risk analysis that evaluates the property and surrounding properties as a whole. Under prior law, sites could not be closed if contamination exceeded state standards, regardless of the risk to human health or the environment;
- Adds a requirement that the voluntary cleanup plans and associated documents be available for public review upon request from a member of the public. The plans and documents also must be indexed and posted on the KDHE website, upon determination by KDHE that a voluntary cleanup plan is acceptable, and for at least five years after the determination that no further remedial action is needed at the site;
- Allows KDHE to issue a nearby, non-responsible property owner who had contamination migrate to that property a determination that no further remedial action is needed even if the party responsible for the contamination is not in the State Cleanup Program; and
- Eliminates the requirement for KDHE to determine which environmental consulting companies are qualified to prepare environmental assessments for the Voluntary Cleanup Program.

FINANCIAL INSTITUTIONS

Financial Organizations—Kansas Money Transmitter Act and Kansas Mortgage Business Act Amendments; ITMs; and Kansas ABLE Savings Program; HB 2216

HB 2216 makes several amendments to the Kansas Money Transmitter Act (KMTA); amends the Kansas Mortgage Business Act (KMBA) to create an exclusion for certain liens in the definition of “mortgage loan”; amends a provision governing branch banking and authorized transactions by remote service units in the Kansas Banking Code to update the definition of “remote service units”; and enacts new law to establish the Kansas ABLE (Achieving a Better Life Experience) Savings Program.

Provisions of the bill are detailed below.

KMTA—Amendments

The bill makes several amendments to the KMTA, including updates to the definition of “agent” and licensure requirements associated with the relationship between an agent and licensee, replacing the definition of “outstanding payment instrument” with “outstanding payment liability” to create a distinction between payment instruments and money transmission considered to be outstanding, and providing the Bank Commissioner (Commissioner) with authority to increase the required amount of surety on a licensee. Amendments to the KMTA are described below.

Definitions

The bill updates the definition of “agent” to mean “a person designated by a licensee to receive funds from a Kansas resident in order to forward such funds to the licensee to effectuate money transmission at one or more physical locations throughout the state or through the internet, regardless of whether such person would be exempt from the Act by conducting money transmission on such person’s own behalf.”

The bill replaces the term “outstanding payment instrument” with “outstanding payment liability,” which is defined to mean:

- With respect to a payment instrument, any payment instrument issued or sold by the licensee that has been sold in the United States directly by the licensee, or any payment instrument that has been sold by an agent of the licensee in the United States which has been reported to the licensee as having been sold and which has not been paid yet by or for the licensee; and
- With respect to the transmission of money or monetary value, any money or monetary value the licensee or agent of the licensee has received from a customer in the United States for transmission which has not yet been delivered to the recipient or otherwise paid by the licensee.

The bill also amends permissible investment provisions in the KMTA to make updates consistent with the new term “outstanding payment liability.”

Surety Requirements

The bill amends surety requirements for licensure applicants. The bill retains the requirement that any applicant must maintain cash or securities of at least \$200,000. The Commissioner has been permitted to increase the required cash and securities up to \$500,000. Under the bill, the Commissioner could increase this requirement for surety to a maximum of \$1,000,000. The Commissioner will be required to base this decision on the following factors: the volume of money transmission business transacted in the state, or the impaired financial condition of a licensee as evidenced by a reduction in net worth or financial losses.

Prior Approval—Appointment of Certain Agents Not Physically Located in Kansas; Exempt Entities

The bill modifies agent licensure requirements to specify a licensee must obtain prior approval from the Commissioner to designate an agent that conducts money transmission business through the internet without a physical location in Kansas. The bill also provides that a person acting as an agent for an exempt entity or any other person accepting funds for transmission through an exempt entity is a money transmitter and subject to the KMTA.

Exemptions from KMTA Provisions

The bill exempts certain service providers from the provisions of the KMTA. Under existing law, banks, building and loan associations, savings and loan associations, savings banks or credit unions, the federal government and its agencies, and the State of Kansas and its agencies are exempted from the provisions. Service providers exempted by the bill are those providers that:

- By written agreement with the exempt entities specified in current law (*i.e.*, banks, credit unions, governments, and government agencies), provide for receipt and delivery of funds, network access, processing, clearance, or settlement services in support of money transmission activities; and
- Allow the state or federal regulators with regulatory jurisdiction over the exempt entity to examine and inspect the applicable records, books, and transactions relating to the service provider.

The bill also deletes reference to building and loan associations in this exemption.

Additional Requirements

The bill requires audited and interim financial statements associated with the filing of an application to be prepared in accordance with the United States Generally Accepted Accounting Principles (GAAP) or in any other form accepted by the Commissioner.

The bill also permits the Commissioner to require any person operating in accordance with the provisions of the KMTA to maintain documents and records, as necessary, to verify compliance with the Act or any other applicable state or federal law or regulation.

The bill authorizes the Commissioner to take administrative action on a licensee to modify one existing finding and create a new finding related to the refusal or failure to provide, after a reasonable time, any information necessary to approve or renew a license.

KMBA—Amendments

The bill amends the KMBA to create an exclusion for certain liens in the definition of “mortgage loan.” This definition would be modified by the bill to exclude “liens of contractors” (also known as contractor’s liens), as defined in Chapter 60 of the *Kansas Statutes Annotated*.

The bill also makes technical changes, including an updated reference to the federal Truth in Lending Act.

Kansas Banking Code—ITMs

The bill amends a provision governing branch banking and authorized transactions by remote service units in the Kansas Banking Code to update the definition of “remote service units” and clarify the meaning of “online” and “offline” as the terms apply to the definition. The change to the definition of “remote service units” will allow banks to operate interactive teller machines (ITMs).

Under the bill, a “remote service unit” means “an electronic information processing device, including associated equipment, structures, and systems, through or by means of which information relating to financial services rendered to the public is stored and transmitted to a bank and which, for activation and account access, is dependent upon the use of a machine-readable instrument in the possession and control of the holder of an account with a bank or is activated by a person upon verifiable personal identification.” The bill further specifies that this term must include “online” computer terminals that may be equipped with a telephone or televideo device that allows contact with bank personnel and “offline” automated cash dispensing machines and automated teller machines.

Kansas ABLE Savings Program

The bill establishes the Kansas ABLE Savings Program (program), an enabling tax-deferred savings program authorized by the passage of the federal ABLE Act, for the purpose of empowering individuals with disabilities and their families to save private funds to support the individuals with disability and to provide guidelines for the maintenance of such accounts. The State Treasurer (Treasurer) will implement and administer the program. Additional program details follow.

Definitions

Several terms are defined in the bill, including “financial organization”; “conservator” and “guardian” (both as defined in KSA 59-3050 *et seq.*); and “qualified disability expenses,” referring to those disability expenses included in § 529A of the federal Internal Revenue Code of 1986, as amended. The additional terms defined include:

- “Account owner” refers to the person who enters into an ABLE savings agreement, and who also is the designated beneficiary;
- “Designated beneficiary” means a Kansas resident whose “qualified disability expenses” may be paid from the account, and who must be an eligible individual at the time the account is established;
- “Eligible individual” for an account refers to an individual entitled to benefits based on blindness or disability that occurred before such individual attained the age of 26, or an individual who filed a disability certification, to the satisfaction of the Secretary of the U.S. Treasury (Secretary), with the Secretary for such taxable year;
- “Management contract” refers to the contract executed by the Treasurer and a financial organization selected to act as a depository and manager of the program; and
- “Savings agreement” is an agreement between the program manager or the Treasurer and the account owner.

Duties and Responsibilities of the Treasurer

The Treasurer will implement and administer the program. Duties include making changes to the program required for the participants to receive the federal income tax benefits or treatment under § 529A, as amended; establishing methods for disbursement of funds held in accounts and for the allocation of funds for administrative costs; promulgating rules and regulations to effectuate the provisions of the program; making an annual evaluation of the program and preparing an annual report of such evaluation to be provided to the Governor, the Senate, and the House of Representatives; and notifying the Secretary when an ABLE account is opened and submitting reports concerning the program required by the Secretary.

The Treasurer is authorized to enter into agreements with other states to either allow Kansas residents to participate in a plan operated by another state or to allow residents of other states to participate in the Kansas program.

Program Implementation

The Treasurer is authorized to implement the program through the use of financial organizations as account depositories and managers and to solicit proposals from financial organizations to act as depositories and managers. The financial organizations submitting proposals will be required to describe the investment instruments held in accounts.

The Treasurer is permitted to select more than one financial organization or investment instrument for the program. The Treasurer will be required to select the financial organization demonstrating the most advantageous combination, both to potential participants and the state, of eight factors set out in the bill.

Minimum Required Contract Terms

The Treasurer is authorized to enter into any contracts with a financial organization needed to put into effect the provisions of the program. The bill establishes the minimum required management contract terms to be performed by the financial organization. These terms will require a financial organization to take action to ensure compliance with program requirements and actions not contrary to managing the program as a qualified ABLE program under § 529A; provide adequate records, keep accounts segregated, and provide the Treasurer with the information necessary to prepare statutorily required statements; provide the Treasurer access to the books and records of the program manager to the extent needed to determine compliance with the contract, the program, and § 529A; hold accounts for the benefit for account owners; have independent audits performed at least annually and provide the audit results to the Treasurer; provide the Treasurer with copies of all regulatory filings and reports during the term of the management contract or while holding any accounts (other than confidential filings and reports that do not become part of the program) and make available to the Treasurer the results of any periodic examination of such manager by any state or federal banking, insurance, or securities commission, except those reports that may not be disclosed under law; and ensure any description of the program in any media form is consistent with the developed marketing plan.

Authorized Actions by the Treasurer

The Treasurer is authorized to do the following:

- Enter into any contracts necessary and proper for program implementation;
- Require an audit of the operations and financial position of the program depository and manager, if the Treasurer has reason to be concerned about the financial position, the record-keeping practices, or the status of accounts; and
- Terminate or not renew a management agreement and, upon termination or non-renewal, take custody of accounts and seek prompt transfer of the accounts to another selected program manager or depository and into investment instruments as similar as possible to the original instruments.

The bill allows the Treasurer, the Department for Children and Families, the Department of Health and Environment, and the Department for Aging and Disability Services to exchange data regarding eligible individuals to carry out the purpose of this act.

ABLE Account Requirements

An ABLE account could be opened by a designated beneficiary, or a conservator or guardian of a designated beneficiary who lacks capacity to enter into a contract, and each beneficiary is allowed to have only one account. A non-refundable application fee could be established by the Treasurer. The account application will be in the form prescribed by the Treasurer and contain the required information specified in the bill.

Contribution Conditions

After an ABLE savings account is opened, any person will be allowed to make contributions, subject to § 529A limitations or rules and regulations promulgated by the Secretary pursuant to this act. Only cash contributions will be permitted.

The Treasurer or program manager is required to reject or promptly withdraw contributions in excess of the established limits, or the total contributions if:

- The value of the account is equal to or greater than the account maximum established by the Treasurer (equal to the account maximum for post-secondary education savings accounts established pursuant to KSA 75-640 *et seq.*, and amendments thereto); or
- The designated beneficiary is not an eligible individual in the current calendar year.

Account Owner Options

The bill allows the account owner to change the designated beneficiary of an account to a member of the family of the prior designated beneficiary, according to procedures established by the Treasurer, and to transfer all or a portion of an account to another ABLE savings account for a designated beneficiary who is a member of the family as defined by § 529A. An account owner will not be allowed to use an interest in an account as a security for a loan, and any such pledge would have no force and effect.

Reporting Requirements

Any distribution from an account to any individual or for the benefit of any individual during a calendar year would have to be reported to the federal Internal Revenue Service, each account owner, and the designated beneficiary or the distributee as required by state or federal law.

The bill requires an account owner to be provided at least 4 statements each year within 30 days after the end of the 3-month period to which a statement relates. The information that will need to be included in the statements is outlined in the bill. Statements and information relating to these accounts will have to be prepared and filed as required by this act and any other state or federal law.

Separate accounting for each designated beneficiary will be required, and an annual fee could be imposed on the account owner for maintenance of an account.

Treatment of Account Funds

Moneys in an ABLE account will be exempt from attachment, execution, or garnishment per KSA 2014 Supp. 60-2308 and could be claimed by the Kansas Medicaid plan only after the death of the designated beneficiary subject to limitations imposed by the Secretary.

Obligations Not Created

The Act will not obligate the Treasurer, the State, or any agency or instrumentality of the State to guarantee the return of principal, the rate of interest or other return on any account, or the payment of interest or other return on any account for the benefit of an account owner or designated beneficiary. The Treasurer is authorized to promulgate rules and regulations to clarify that documents used in connection with opening an account clearly indicate the account is not insured by the State and the principal deposited and the investment return are not guaranteed by the State.

Kansas ABLE Savings Program Trust and Savings Expense Funds Established

The bill establishes the Kansas ABLE Savings Program Trust Fund in the State Treasury. If the Treasurer decides to accept deposits from contributors, instead of having the deposits sent directly to the program manager, the funds will be deposited in the trust fund. All interest derived from the deposit and investment of moneys in the savings trust fund will be credited to the fund. All unexpended and unencumbered moneys in the trust fund at the end of any fiscal year will remain in the trust fund and not be credited or transferred to the State General Fund (SGF), or to any other fund.

Additionally, the Kansas ABLE Savings Expense Fund is established in the State Treasury, consisting of moneys received from the ABLE savings program manager, or any governmental or private grants, and any SGF appropriations for the program. All expenses incurred by the Treasurer in developing and administering the program will be payable from this expense fund.

Municipal Indebtedness Reporting Requirements; Temporary Notes; Bonds and Warrants Law; HB 2259

HB 2259 amends provisions relating to municipal indebtedness reporting requirements and temporary notes in the bonds and warrants law.

Municipal Indebtedness Reporting

The bill changes reporting deadlines for county and municipal clerks to gather and report indebtedness figures relating to the Kansas Indebtedness Report and requires the State Treasurer to publish this information online.

Individual clerks of each municipality have been required to annually report debt information to the county clerk by July 5 of each year. The county clerk has then been required to consolidate the information and report to the Bond Services Department of the State Treasurer's Office by July 15 of each year. The bill changes the deadline for municipal clerks from July 5 to July 31 each year, and changes the deadline for the county clerk to compile and report the information to the State Treasurer from July 15 to August 15 each year.

Additionally, the bill requires the State Treasurer to, on or before September 30 of each year, make the information on the statements available on the State Treasurer's website.

Municipal Finance and Temporary Notes

The bill amends provisions in the general bond law relating to municipal finance and temporary notes. The bill removes the requirement that temporary notes, which are debt instruments used by municipalities for short-term financing, be confined to one sheet of paper.

The bill makes technical amendments to update and rephrase language used in the statutes.

INSURANCE

Life Insurance—Principle-Based Valuation; Standard Nonforfeiture Law; SB 47

SB 47 amends provisions in the Insurance Code pertaining to the methodology for determining future minimum life insurance policy reserves by adopting “Principle-Based Reserving” (PBR) contained in the National Association of Insurance Commissioners’ (NAIC) Model Standard Valuation Law. In updating to this new methodology, the bill amends provisions in both the Standard Valuation Law and the Standard Nonforfeiture Law. Under current law, the calculation of reserves is made using a rules-based formulaic approach.

Definitions and general provisions relating to insurance policies and contracts subject to the PBR requirements will be applicable on and after the operative date of the Valuation Manual. (The operative date of the Valuation Manual will be January 1 of the first calendar year the Valuation Manual is effective.)

Standard Valuation Law—Incorporating PBR Requirements

Definitions. The bill establishes definitions for several terms, including these:

- **Company** – An entity which has written, issued or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and has at least one such policy in force or on claim; or has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in this state;
- **Deposit-type contract** – Contracts that do not incorporate mortality or morbidity risks and may be specified in the Valuation Manual;
- **Principle-based valuation** – A reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with principle-based valuation requirements in the bill, as specified in the Valuation Manual; and
- **Valuation Manual** – The manual of valuation instructions adopted by the NAIC.

Insurance Products Subject to Minimum Reserve Requirements—Existing Law and New Law

The bill clarifies the annual reporting of certified valuation of the policies of life insurance companies to the Insurance Commissioner will continue for the policies and contracts issued prior to the operative date of the Valuation Manual. The bill delineates which requirements will be applicable for policies and contracts based on the timing of their issuance relative to the operative date of the Valuation Manual:

- Policies and contracts issued prior to the operative date of the Valuation Manual and prior to the operative date of the Standard Nonforfeiture Law; and
- Policies and contracts issued prior to the operative date of the Valuation Manual but after the operative date of the Standard Nonforfeiture Law.

In both instances described above, the formulaic reserve calculation methodology specified in existing law will remain unchanged.

The bill then provides a new methodology for policies and contracts issued on or after the effective date of the Valuation Manual. The bill requires the Commissioner to annually value the reserve liabilities (referred to in the PBR amendments as “reserves”) for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts. The Commissioner is allowed to accept, in the case of a foreign or alien company, a valuation made by the supervisory official of that state or other jurisdiction.

PBR Products Subject to Review—Documentation Requirements

Under current law, each life insurance company annually files an actuarial opinion of reserve liabilities which must include support information for review (e.g., investment earnings on assets, consideration of and provision for the company’s obligations under its policies and contracts). Each insurers subject to the PBR requirements of the bill also must file an actuarial opinion of reserves in a manner similar to current law. The bill creates provisions to accommodate additional standards specified in the Valuation Manual. The bill will require companies, unless otherwise exempted in the Valuation Manual, to file the actuarial opinion of an appointed actuary on reserves, including support information. The opinion must be submitted in the form and substance specified in the Valuation Manual and acceptable to the Commissioner. Additionally, if the Commissioner determined the insurance company failed to provide a supporting memorandum or the filed supporting memorandum failed to meet certain standards, the Commissioner is permitted to engage a qualified actuary at the expense of the company to review the opinion and prepare the memorandum. The bill also provides that disciplinary action by the Commissioner against a company or the appointed actuary must be defined in rules and regulations adopted by the Commissioner.

Accident and Health Insurance Contracts. The bill specifies the standard of valuation applicable to accident and health insurance contracts based on the timing of the operative date of the Valuation Manual. For those contracts issued prior to this date, the Commissioner must adopt rules and regulations establishing the minimum standard of valuation. (The Commissioner currently is required to adopt rules and regulations relating to the minimum standards applicable to the valuation of accident and sickness insurance.) For those contracts issued on or after the operative date of the Valuation Manual, the standard prescribed in the Valuation Manual will be the minimum standard of valuation required.

Standard of Valuation and Operative Date of the Valuation Manual

The bill specifies, for life insurance policies and contracts issued on or after the operative date of the Valuation Manual, the standard prescribed in the Valuation Manual will be the minimum standard of valuation required. The bill specifies the operative date of the Valuation Manual will be January 1 of the first calendar year following the first July 1 in which the following have occurred:

- The Valuation Manual has been adopted by the NAIC by an affirmative vote of at least 42 members, or three-fourths of the members voting, whichever is greater;
- The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than 75 percent of the direct premiums as reported in certain annual statement submitted for 2008; and
- The Standard Valuation Law, as described above, has been enacted by at least 42 of the 55 jurisdictions.

The bill also provides for determination of effective dates of future changes to the Valuation Manual.

Valuation Manual Requirements. The bill outlines specifications associated with the Valuation Manual. Among the requirements, the Valuation Manual must specify:

- Minimum valuation standards for and definitions of the policies and contracts issued on and after the operative date of the Valuation Manual, including:
 - The Commissioner's reserve valuation method for life insurance contracts, other than annuity contracts;
 - The Commissioner's annuity reserve valuation method for annuity contracts; and
 - Minimum reserves for all other policies or contracts subject to the PBR requirements.
- Which policies or contracts are subject to the requirements of principle-based valuation and the minimum valuation standards consistent with those requirements;
- Requirements for the format of reports including the information necessary to determine if the valuation is appropriate and in compliance (limited to those companies subject to PBR);
- Other requirements, including reserve methods and risk measurement; and
- The data and form of data required and other specifications regarding data analyses and reporting of analyses.

The bill permits the Commissioner to employ or contract a qualified actuary, at the expense of the company, to perform an actuarial examination on the company and provide an opinion on the appropriateness of any reserve assumption or methodology used. The Commissioner also will be authorized to require a company to change any assumption or methodology that is necessary to meet the required standard for reserves.

Requirements of Principle-based Valuation. The bill also sets forth conditions on policies and contracts issued by a company subject to principle-based valuation requirements. Among the conditions for companies establishing reserves using the PBR the requirements are:

- Quantifying the benefits and guarantees, and the fund, associated with the contracts and their risks at a level of conservatism reflecting conditions that include unfavorable events having a reasonable probability of occurring during the lifetime of the contracts; and
- Providing margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty, the larger the margin and resulting reserve.

The bill also requires companies using principle-based valuation to establish procedures for corporate governance and oversight of the actual valuation function, provide the Commissioner an annual certification of the effectiveness of its internal controls with respect to principle-based valuation, and develop and file with the Commissioner, upon request, a principle-based valuation report that complies with the standards prescribed in the Valuation Manual. Companies will be required to submit mortality, morbidity, policyholder behavior or expense experience, and other data as prescribed in the Valuation Manual.

Confidentiality. The bill provides a definition of “confidential information” to include the memorandums in support of actuarial opinions and related documentation and documents, materials, and working papers created, produced, or obtained by or disclosed to the Commissioner or others in the course of an examination. Additionally, the bill creates provisions outlining the privilege for, and confidentiality of, confidential information. The bill states a company’s confidential information is confidential by law and privileged (exceptions are noted), and not subject to the Kansas Open Records Act, not subject to subpoena, and not subject to discovery or admissible in evidence in any private civil action. The exception allows the Commissioner to use the confidential information in the furtherance of regulatory or legal action brought against the company. The bill then specifies how the Commissioner is permitted to share confidential information with certain regulators, law enforcement officials, and the NAIC.

Exemption for Certain Products and Lines. The Commissioner is permitted to exempt specific product forms or product lines of a domestic insurance company that is licensed and only doing business in Kansas.

Standard Nonforfeiture Law—Amendments

The bill specifies, for policies issued on and after the effective date of the Valuation Manual, the Valuation Manual will provide the Commissioners’ standard mortality table for use in determining the minimum nonforfeiture standard. For those policies issued on or after the operative date of the Valuation Manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year will be provided by the Valuation Manual.

Risk Management and Own Risk and Solvency Assessment Act; SB 76

SB 76 creates the Risk Management and Own Risk and Solvency Assessment Act (Act). The requirements of the Act apply to certain insurers and insurance groups transacting business in Kansas.

The Act:

- Provides requirements for maintaining a risk management framework and completing an own risk and solvency assessment (ORSA) summary report with the Insurance Commissioner; and
- Contains, along with the ORSA summary report, confidential and sensitive information related to an insurer or insurance group's identification of risks material and relevant to the insurer or group filing the report. The bill further states the "information will include proprietary and trade secret information that has the potential for harm and competitive disadvantage to the insurer or group if the information is made public. The ORSA summary report shall be a confidential document filed with the commissioner and shall only be shared as stated herein and to assist the commissioner in the performance of the commissioner's duties. In no event shall the ORSA summary report be subject to public disclosure."

Definitions

The bill creates definitions associated with the Act, including:

- Insurance group – those insurers and affiliates included within an insurance holding company system;
- Own risk and solvency assessment or ORSA – a confidential internal assessment, appropriate to the nature, scale and complexity of an insurer or insurance group, conducted by that insurer or insurance group of the material and relevant risks associated with the insurer or insurance group's current business plan and the sufficiency of capital resources to support those risks;
- ORSA Guidance Manual – the current version of the ORSA manual developed and adopted by the National Association of Insurance Commissioners (NAIC), as in effect on January 1, 2017; and
- ORSA Summary Report – a confidential high-level summary of an insurer or insurance group's ORSA.

Requirements on Insurers and Insurance Groups

Under the requirements specified in the bill, an insurer will be required to maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing, and reporting on its material and relevant risks. This requirement could be satisfied if the insurance group of which the insurer is a member maintains an applicable risk management framework. An insurer or insurance group will be to regularly conduct, at least annually and when there are significant changes to the risk profile of the insurer or the insurance group, an ORSA consistent with the process specified in the ORSA Guidance Manual.

Upon the request of the Insurance Commissioner, and on an annual basis, an insurer will be required to submit to the Commissioner an ORSA Summary Report or a combination of

reports that contain information described in the ORSA Guidance Manual. The reports will be required to include the signature of an officer or other executive having responsibility for the oversight of the insurer's enterprise risk management process. Documentation and supporting material associated with the ORSA Summary Report will be required to be maintained and made available upon examination or at the request of the Commissioner. The bill provides reporting requirements for insurers and insurance groups making reports to commissioners in other states and regulators in foreign jurisdictions.

Exemptions; Risk Management Framework

The bill exempts insurers from the requirements of the Act if:

- The insurer has an annual written and unaffiliated assumed premium, including international and direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500 million; and
- The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$1 billion.

The bill further clarifies ORSA Summary Report filing requirements for those insurers and insurance groups that meet one of the two allowable exemptions and requests for waivers from reporting by an insurer or insurance group. The Commissioner is authorized to require an insurer maintain a risk management framework, conduct an ORSA, and file an ORSA Summary Report based on unique circumstances, such as the type and volume of business written, ownership and organizational structure, and federal agency requests and international supervisor requests. The bill also provides for the filing of certain information by an insurer in the event the insurer no longer qualifies for an exemption.

Confidentiality—Proprietary Information; Duties of the Insurance Commissioner

The bill specifies that documents, materials, or other information, including the ORSA Summary Report, in the possession or control of the Department of Insurance that are obtained or created by or disclosed to the Commissioner or any other person under the Act are recognized by this state as being proprietary and to contain trade secrets. The bill declares that all such documents, materials, or other information is confidential by law and privileged, not subject to the Kansas Open Records Act, not subject to subpoena, and not subject to discovery or admissible in evidence in any private civil action. The bill grants the Commissioner the authority to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties. The Commissioner will not be permitted to otherwise make the documents, materials, or other information public without the prior written consent of the insurer. Further, neither the Commissioner nor any other person in receipt of the documents, materials, or other ORSA-related information will be permitted or required to testify in any private civil action concerning any such confidential documents.

The bill specifies certain agreements, arrangements, procedures, and notifications to gather information and share confidential and privileged documents, materials, and ORSA-

related information the Commissioner could utilize to perform the regulatory duties. The bill further specifies that documents, materials, or other information in the possession or control of the NAIC or a third-party consultant shall be confidential by law and privileged, shall not be subject to subpoena, and shall not be subject to discovery or admissible as evidence in any private civil action.

Penalty

If an insurer fails, without just cause, to timely file its ORSA Summary Report, the bill requires the insurer, after notice and hearing, to pay a penalty for each day's delay, to be recovered by the Insurance Commissioner. The bill further provides the recovered penalty must be paid into the State General Fund. The maximum penalty allowed under the Act is \$50,000. The Commissioner is allowed to reduce the penalty if the insurer demonstrates the imposition of the penalty would constitute a financial hardship.

Severability; Effective Dates

The bill provides, if any provision of the Act or application thereof is held invalid, the determination will not affect the provisions or application of the Act which can be given effect without the invalid provision or application and, to that end, the provisions of the Act are severable.

The bill specifies the first filing of the ORSA Summary Report will be in 2017 and the Act will take effect and be in force from and after January 1, 2017, and its publication in the statute book.

Investments by Other Than Life and Life Insurance Companies; HB 2066

HB 2066 amends statutes in the Insurance Code governing investments by insurance companies other than life and life insurance companies to unify the language in these complementary statutes; adds definitions for clarification; expands the investments a life insurance company could make to permit all allowable domestic investments to be made on a foreign basis; and allows both life insurance companies and other than life insurance companies to invest in second lien mortgages, with an increase in the loan-to-value ratio for first and second liens from 80 percent to 90 percent, and clarifies that insurers may be indirectly secured by a mortgage.

In the statutes governing investments by life insurance companies and investments by other than life insurance companies, the following additional changes are made:

- "Business entity" replaces references to "corporation" or "company";
- Definitions for "business entity," "NAIC" (National Association of Insurance Commissioners), and "SVO" (Securities Valuation Office of the NAIC or any successor office established by the NAIC) are added;
- A more recent quarterly financial statement filed with the Insurance Commissioner is allowed to establish the admitted assets for purposes of investment limits; and

- Clarification the ratings for mortgage related securities are designated by the SVO or its equivalent rating by a nationally-recognized statistical rating organization recognized by the SVO.

Risk-Based Capital Instructions and Property and Casualty Actuarial Opinion Letter Law; HB 2126

HB 2126 restores provisions in and updates an expiration date in the Property and Casualty Actuarial Opinion Letter Law and amends the effective date specified in the Insurance Code for the risk-based capital (RBC) instructions promulgated by the National Association of Insurance Commissioners (NAIC) for property and casualty insurance companies, as well as for life insurance companies.

The bill restores language in the Property and Casualty Actuarial Opinion Letter Law relating to the authority of the Insurance Commissioner to release and utilize certain confidential documents, materials, and other information associated with disciplinary proceedings and other regulatory or legal actions. (The language was stricken as the provisions, originally enacted in 2008 and subject to legislative review in 2013, were not reviewed or updated during the 2014 Session.) Additionally, the bill specifies these reinstated provisions expire on July 1, 2020, unless the Legislature reenacts such provisions. The provisions are subject to legislative review prior to July 1, 2020.

The bill also amends the effective date for the RBC instructions promulgated by the NAIC for property and casualty insurance companies and for life insurance companies. The bill updates the effective date on the RBC instructions from December 31, 2013, to December 31, 2014.

JUDICIARY

Criminal History Record Information—Exclusions; SB 13

SB 13 clarifies the definition of “criminal history record information” by excluding information regarding the release, assignment to work release, or any other change in custody status of a person confined by the Department of Corrections or a jail. The bill also removes a reference to the Juvenile Justice Authority.

Unlawful Abuse of Toxic Vapors; SB 252

SB 252 amends the crime of unlawful abuse of toxic vapors to include “other halogenated hydrocarbons” within the definition of “toxic vapors.”

Criminal History Calculation; HB 2053

HB 2053 amends statutes governing the calculation of criminal history to specify that any prior adult felony conviction, prior misdemeanor, or prior juvenile adjudication for offenses committed before July 1, 1993, shall be scored as a person or nonperson crime using a comparable offense under the Kansas Criminal Code that was in effect on the date the current crime of conviction was committed. The bill states these amendments are procedural in nature and shall be construed and applied retroactively, and the bill contains a severability provision.

The bill takes effect upon publication in the *Kansas Register*.

Risk Assessment and Juvenile Offender Placement; HB 2336

HB 2336 requires the court to administer a risk assessment tool or review a risk assessment tool administered within the past six months before a juvenile offender can be placed in a juvenile detention center, under house arrest, or in the custody of the Department of Corrections, or can be committed to a sanctions house or to a juvenile correctional facility. These provisions are effective July 1, 2015.

Additionally, the bill modifies a general prohibition on placement of any juvenile convicted as an adult in a juvenile correctional facility by permitting placement of juveniles between 16 and 18 years of age who are convicted as adults or under extended jurisdiction juvenile prosecution in a juvenile correctional facility.

Except as previously noted, the bill takes effect upon publication in the *Kansas Register*.

LICENSES, PERMITS, AND REGISTRATIONS

Real Estate License Fees; Contractual Relationships; SB 108

SB 108 allows the Real Estate Commission (Commission) to increase license fees. The bill also makes revisions to the real estate industry laws pertaining to regulation and contractual relationships.

The bill increases the limit placed on license fees charged to real estate salespersons and brokers. For salespersons, the fee limit for original and renewal licenses increases by \$50, from \$100 to \$150. For brokers, the fee limit increases by \$50, from \$150 to \$200.

The Commission may approve continuing education providers that offer real estate courses. The bill also clarifies the authority of the Commission to refuse to grant or renew a real estate license or place certain conditions on a license.

The Commission is authorized to take disciplinary action toward applicants and licensees who engage in prohibited conduct, even when a licensee is not involved in a real estate transaction as an agent, transaction broker, or principal. A buyer's or tenant's agent may present an offer to a seller or landlord if that person's transaction broker is present.

Roofer Registration Act; General Contractors; HB 2254

HB 2254 exempts general contractors from the Roofers Registration Act, which requires persons intending to perform roofing services for payment to register beforehand with the Office of the Attorney General. Upon request of a general contractor, the Attorney General may issue a letter of exemption to that person, stating the Roofer Registration Act does not apply, if one of the two following sets of conditions are met.

If a general contractor would be working without a roofer, the contractor must demonstrate:

- Compliance with all requirements to do business in the state, including local government requirements;
- Any roofing services performed would not account for more than 50 percent of the total project cost; and
- "Door-to-door sales," as defined by law, have not been conducted by the general contractor or persons working for the contractor.

If subcontracting with a roofing contractor, a general contractor must demonstrate:

- There is no direct supervision of the roofer's employees, and the roofing contractor is a separate legal business entity;
- The general contractor or persons working for that person do not engage in roofing services;

- The roofing contractor has a valid registration certificate, which the general contractor would retain a copy of and make available for inspection;
- A contract between the general contractor and the roofing contractor, specifying the terms and conditions of roofing services to be performed, including notification to the general contractor if the roofing registration certificate were to become invalid;
- Compliance with all requirements to do business in the state, including local government requirements; and
- “Door-to-door sales,” as defined by law, have not been conducted by the general contractor or persons working for the contractor.

The general contractor must inform the Attorney General if the roofing contractor is no longer in compliance with the Roofer Registration Act.

LOCAL GOVERNMENT

Claims Against Municipal Employees; HB 2246

HB 2246 amends law governing notice that must be provided to a municipality when a claim is filed against the municipality. The bill requires when a claim is brought against a municipal employee, notice must be provided to the municipality. The bill creates a definition of “employee” for this act.

STATE GOVERNMENT

Repeal of Legislative Division of Post Audit School District Audit Team; SB 8

SB 8 repeals the law establishing a school district audit team within the Legislative Division of Post Audit (LPA) and requiring the LPA to conduct performance audits and monitor school district funding and other oversight issues through audit work, as directed by the 2010 Commission.

Kansas Disaster Utilities Response Act; SB 109

SB 109 creates the Kansas Disaster Utilities Response Act (Act).

Out-of-state businesses conducting operations within the state for disaster or emergency-related work are not considered to have established a level of presence requiring registration, licensing, or filing or remitting state or local taxes. Similarly, out-of-state employees are not considered to have established residency in the state that would require the employee or the employee's employer to file and pay state income taxes. However, out-of-state businesses and employees are required to pay transaction taxes and fees on purchases for use or consumption in the state during the disaster response period, unless otherwise exempted.

Out-of-state businesses and employees that remain in the state after the disaster response period are subject to the state's normal standards for residency or doing business in the state and are responsible for tax requirements or obligations and registration, licensing, or filing requirements.

Upon request of the Kansas Department of Revenue (KDOR), the out-of-state business or its affiliate that enters the state is required to provide a written statement that the business is in the state for disaster or emergency-related purposes. An annual record of all declared state disasters and emergencies is to be maintained by the KDOR and the agency is authorized to promulgate any necessary rules and regulations to implement the Act.

The bill takes effect upon publication in the *Kansas Register*.

Land Purchases; SB 120

SB 120 exempts the Kansas Department of Wildlife, Parks and Tourism (KDWPT) from law regarding certain land purchases in four counties. The bill also amends law regarding purchase of tracts of land throughout the state.

Current law states the purchase of land greater than 320 acres in the aggregate by the KDWPT must be approved by the Legislature. The bill lowers that amount from 320 acres to 160 acres. In addition, the bill exempts KDWPT from that limit only for land purchases less than 640 acres, purchased with Natural Resource Damage and Restoration funds, in Cherokee, Crawford, Labette, and Neosho counties.

Criminal History Checks for Persons Contracted to Work with the Legislative Division of Post Audit; HB 2009

HB 2009 allows the Legislative Division of Post Audit to require persons who contract to work with or work under the direction of the Post Auditor to be fingerprinted and submit to a state and national criminal history record check. The information can be used to verify the identification of such persons and to determine their qualifications and fitness to work with the Division in any capacity. If offered a position of employment, the bill requires written notice that a criminal history check is required, as well as written notice if the criminal history information is used to disqualify a person from employment or a contract offer. The bill requires local law enforcement officers and agencies to assist in the taking and processing of fingerprints and allows them to charge a fee as reimbursement for expenses incurred.

Continuation of Exceptions to the Kansas Open Records Act; HB 2023

HB 2023 continues in existence the following exceptions to the Kansas Open Records Act (KORA):

- KSA 17-2036, concerning income tax return extension applications submitted to the Secretary of State;
- KSA 40-5301, concerning records, data, and information of the Interstate Insurance Product Regulation Compact;
- KSA 45-221(a)(45), concerning records, which, if disclosed, would pose a substantial likelihood of revealing certain security measures;
- KSA 45-221(a)(46), concerning information and materials received by a county Register of Deeds from military discharge papers;
- KSA 45-221(a)(49), concerning an individual's contact information given to a public agency to receive widely distributed agency notifications or communications;
- KSA 48-16a10, concerning information obtained pursuant to the Radon Certification Law;
- KSA 58-4616, concerning certain records retained by the unit owner association of a common interest community;
- KSA 60-3351, concerning self-evaluative audit documents submitted to and in the possession of the Insurance Commissioner (the bill also would remove a July 1, 2015, sunset for language specifying self-evaluative audit documents are not subject to any disclosure or production under KORA);
- KSA 72-972a, concerning due process complaint notices filed under the Special Education for Exceptional Children Act;
- KSA 74-50,217, concerning the contents of forms completed pursuant to the Promoting Employment Across Kansas Act;

- KSA 74-99d05, concerning certain records of the Kansas Electric Transmission Authority, which, if disclosed, would be harmful to the competitive position of third parties or to the security of transmission facilities; and
- KSA 75-53,105, concerning criminal history record information obtained by the Secretary for Children and Families for the purpose of determining initial and continuing qualification for employment or participation in a program for the placement, safety, protection, or treatment of vulnerable children or adults.

Notice and Evaluation of Certain Construction Projects; HB 2267

HB 2267 revises the notice requirements and the evaluation of construction projects involving alternatives to the standard competitive bidding procedures for school districts, state agencies, and the Board of Regents. The respective board, or the Director of Facilities Management in the case of the State, must give notice of a request for qualifications (RFQ) or a request for proposal (RFP) to all active general contractor industry associations in Kansas at least 15 days prior to a hearing or the commencement of a request. Local boards of education also must give notice to the Associated General Contractors of Kansas. Under previous law, notice was published at least 15 days prior to a hearing or commencement in either the official school district newspaper or the *Kansas Register*, as applicable.

If a construction firm has been prequalified through an RFQ process, the firm submits a list of proposed fees directly and only to the Secretary of Administration. The Secretary scores and ranks the submitted proposals for the best value and reports the findings and makes a recommendation to the appropriate body charged with selecting a firm. The scores on fees and profits may not account for more than 25 percent of the total possible score.

With regard to the bidding processes for state agencies, the bill clarifies that a prequalified building design-builder is eligible to be paid a stipend for a proposal, as may have been established by the RFP, which was substantially responsive to the request but not accepted by the state agency. Under prior law, a stipend was paid without consideration given to the applicability of the proposal to the RFP.

With regard to projects under the responsibility of the Board of Regents, a construction manager or general contractor may self-perform construction services, at the discretion of the educational institution, if the firm's bid proposal is submitted prior to the receipt of all other bids. Under prior law, self-perform construction services were submitted under the same conditions for all competing firms.

TRANSPORTATION AND MOTOR VEHICLES

Safety and Economic Regulation of Commercial Motor Vehicles; SB 21

SB 21 amends the economic and safety regulation of commercial motor vehicles operated solely in intrastate commerce.

Economic Regulation

In law exempting certain motor carriers from requirements to obtain a certificate, license, or permit from the Kansas Corporation Commission (KCC) or file rates, tariffs, annual reports, or proof of insurance with the KCC (“economic regulation”), the bill replaces an exemption set to expire July 1, 2015, for all commercial motor vehicles operating in intrastate commerce that weigh less than 26,001 pounds and meet certain restrictions. The bill exempts certain private motor carriers: those domiciled in Kansas; operating commercial motor vehicles with gross vehicle weights (GVW), gross vehicle weight ratings (GVWR), gross combination weights (GCW), or gross combination weight ratings (GCWR) of 10,000 to 26,000 pounds; and registered in Kansas. Under continuing law, the exemption in this bill is not applicable to commercial motor vehicles, regardless of weight, that are used to transport 16 or more passengers (including the driver); intrastate public (for-hire) carriers of property or passengers; or motor vehicles used in the transportation of hazardous materials and required to be placarded under federal law.

The bill defines “domicile” as the principal place of business of a motor carrier in law exempting these types of motor carriers from economic regulation: any private motor carrier operating within a 25-mile radius beyond its city of domicile; any taxi or bus company operating exclusively within any city or within a 25-mile radius beyond its city of domicile; and the private motor carriers described above.

Safety Regulation

The bill exempts certain specified motor carriers from the safety provisions of 49 CFR parts 390 through 399 adopted by reference in the KCC’s rules and regulations, rather than from “any” safety requirements in the KCC rules and regulations.

The bill replaces an exemption for commercial motor vehicles with GVW, GVWR, GCW, or GCWR of 26,000 pounds or less (which was set to expire July 1, 2015) with an exemption for private motor carriers domiciled in Kansas operating commercial motor vehicles with GVW, GVWR, GCW, or GCWR of 10,001 to 26,000 pounds and registered in Kansas. The bill requires private motor carriers to comply with certain safety requirements regarding load securement, coupling devices, and vehicle inspection. The bill defines “domicile” the same way as in the economic regulation portion of the bill. Under continuing law, the exemption in this bill is not applicable to commercial motor vehicles, regardless of weight, that are used to transport 16 or more passengers (including the driver); intrastate public (for-hire) carriers of property or passengers; or motor vehicles used in the transportation of hazardous materials and required to be placarded under federal law.

Additional groups exempted from the safety provisions of 49 CFR parts 390 through 399 as adopted by reference in the KCC’s rules and regulations are those that have been exempted from any commercial motor vehicle safety rules and regulations of the KCC: the owner of

livestock or producer of farm products transporting livestock or farm products under certain circumstances; transporting children to and from school or motor vehicles owned by schools, colleges, religious and charitable organizations and institutions, or governmental agencies, when used to convey students or similar activities; certain grain transport vehicles; hearses, ambulances, and similar vehicles used by motor carriers; government vehicles; not-for-profit van pools using vehicles seating no more than 15, including the driver; and any vehicle used by a person actively engaged in buying, selling, or exchanging implements of husbandry within 100 miles of the person's established place of business, unless the implement of husbandry is transported on a commercial motor vehicle.

The bill takes effect upon publication in the *Kansas Register*.

Home on the Range Highway; Provisions Relating to Signage; SB 43

SB 43 designates a portion of K-8 as the Home on the Range Highway. The designated portion of K-8 begins at the junction of K-8 with US-36 and continues north to the Nebraska state line, in Smith County, and is the paved road closest to the site where the song "Home on the Range" was written.

The bill establishes three provisions related to signage:

- Requiring the Secretary of Transportation to place suitable signs to indicate the designation;
- Precluding the signs from being erected until the Secretary has received sufficient moneys from gifts and donations to reimburse the Secretary for the cost of placing the signs and an additional 50 percent of the initial cost to defray future maintenance or replacement of the signs; and
- Allowing the Secretary to accept and administer gifts and donations to aid in obtaining and installing suitable signs.

Definitions of Certain Off-Highway Vehicles; SB 73

SB 73 amends the definitions of three types of vehicles in a registration statute:

- All-terrain vehicle – The bill removes from the definition a requirement the seat be designed to be straddled by the operator and removes specifications for nonhighway tires to be used on the all-terrain vehicle;
- Recreational off-highway vehicle – The bill specifies a minimum width of more than 50 inches and removes requirements the vehicle have a nonstraddle seat and a steering wheel for steering control; and
- Work-site utility vehicle – The bill removes a maximum length requirement of 135 inches and replaces a requirement for low pressure tires with a requirement for nonhighway tires.

The definitions of “all-terrain vehicle” and “work-site utility vehicle” are amended in the same ways in the Uniform Act Regulating Traffic. (The Uniform Act does not include a definition of recreational off-highway vehicle.)

Motor Carrier Civil Penalty Procedures; SB 150

SB 150 allows a duly authorized representative of a corporation or an attorney to enter an appearance and represent a motor carrier before the Kansas Corporation Commission (KCC) if the civil penalty for violation of the applicable statute, KCC order, or KCC motor carrier rule and regulation is \$500 or less.

The bill takes effect upon publication in the *Kansas Register*.

Public Parking Facility; Disabled Veterans; HB 2006

HB 2006 grants free parking privileges to disabled veterans who have disabled veteran license plates. Qualifying disabled veterans are able to park free of charge in spaces clearly marked as reserved for disabled persons in public parking facilities and public parking lots that employ parking attendants to collect payment.

Kansas Turnpike Authority Contracts and Operations; HB 2085

HB 2085 amends provisions related to the relationship between the Kansas Department of Transportation (KDOT) and the Kansas Turnpike Authority (KTA) in these ways:

- The bill designates the Secretary of Transportation (Secretary) as the director, rather than the director of operations, of the KTA. The bill also removes a July 1, 2016, sunset on the Secretary being in that position;
- The bill removes a July 1, 2016, effective date for provisions authorizing the Secretary and KTA to contract with each other (generally, allowing KTA to contract with KDOT for use of KDOT resources for certain types of work related to KTA projects), allowing the provisions to become effective with the bill; and
- The bill removes a July 1, 2016, sunset date for a section of law authorizing the KTA and the Secretary to take actions to minimize duplication of effort.

The bill also changes a KTA reporting requirement. The KTA has made an annual report to the Governor before March 31, for the preceding calendar year. The bill requires the report be made prior to the tenth day of each regular legislative session and to cover the preceding fiscal year.

Clay County Vietnam Veterans Bridge; HB 2103

HB 2103 designates bridge No. 14(030) on K-15 in Clay County as the Clay County Vietnam Veterans Bridge.

The signs designating the bridge will be placed once the Secretary of Transportation has received sufficient moneys from gifts and donations to pay for the cost associated with the signs; the Secretary also must receive 50 percent of the overall cost of the signs, before the signs are placed, to defray future maintenance or replacement costs of the signs.

NUMERICAL INDEX OF BILLS
House Bills and Resolutions

Bill	Page	Bill	Page
HB 2006.....	38	HB 2193.....	11
HB 2009.....	34	HB 2216.....	13
HB 2023.....	34	HB 2246.....	32
HB 2053.....	29	HB 2254.....	30
HB 2066.....	27	HB 2259.....	19
HB 2085.....	38	HB 2267.....	35
HB 2103.....	38	HB 2275.....	4
HB 2126.....	28	HB 2336.....	29
HB 2192.....	11		

NUMERICAL INDEX OF BILLS
Senate Bills and Resolutions

Bill	Page	Bill	Page
House Sub. for SB 4.....	5	SB 73.....	37
House Sub. for SB 7.....	7	SB 76.....	24
SB 8.....	33	SB 95.....	1
SB 13.....	29	SB 108.....	30
SB 21.....	36	SB 109.....	33
SB 43.....	37	SB 120.....	33
SB 45.....	6	SB 150.....	38
SB 46.....	4	SB 252.....	29
SB 47.....	21		