

**SENATE BILL No. 224**

By Committee on Federal and State Affairs

2-9

1 AN ACT concerning environmental, social and governance standards  
2 involving contracts, investments and business practices; relating to  
3 ideological boycotts or other discriminatory conduct; enacting the  
4 Kansas protection of pensions and businesses against ideological  
5 interference act; directing the board of trustees of the Kansas public  
6 employees retirement system to divest from investments with entities  
7 engaged in ideological boycotts; establishing conditions and procedures  
8 for divestment; requiring the state treasurer to publish a list of financial  
9 companies and financial institutions engaged in ideological boycotts;  
10 authorizing the state treasurer to disqualify listed financial institutions  
11 from receiving deposit of state moneys; prohibiting governmental  
12 contracts without written verification that a contractor is not engaged in  
13 ideological boycotts; directing fiduciaries of governmental plans that  
14 provide retirement benefits, defer employee income or invest taxpayer  
15 moneys to act only in the financial interest of such plans; requiring  
16 registered investment advisers to make certain disclosures to clients and  
17 obtain written consent of clients prior to investing client funds in  
18 investments engaged in ideological boycotts; providing for civil and  
19 criminal penalties; amending K.S.A. 75-4208 and K.S.A. 2022 Supp.  
20 40-2404 and repealing the existing sections.

21

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

23

24 New Section 1. (a) The provisions of sections 1 through 29, and  
25 amendments thereto, shall be known and may be cited as the Kansas  
26 protection of pensions and businesses against ideological interference act.

26

(b) As used in this act:

27

(1) "Act" means the Kansas protection of pensions and businesses  
28 against ideological interference act.

29

(2) "Banking contract" means a contract entered into by the treasurer  
30 or the pooled money investment board and a financial institution pursuant  
31 to article 42 of chapter 75 of the Kansas Statutes Annotated, and  
32 amendments thereto, to receive deposit of state moneys in operating  
33 accounts or investment accounts.

34

(3) "Board" means the board of trustees of the Kansas public  
35 employees retirement system.

36

(4) "Company" means any organization, association, corporation,

1 partnership, joint venture, limited partnership, limited liability partnership,  
2 limited liability company or other entity of business association, including  
3 a wholly owned subsidiary, majority-owned subsidiary, parent company or  
4 affiliate of such entities or business associations that exists for the purpose  
5 of making a profit.

6 (5) "Direct holdings" means, with respect to a financial company, all  
7 securities of that financial company held directly by the system in an  
8 account or fund in which the system owns all shares or interests.

9 (6) "Financial company" means a publicly traded financial services,  
10 banking or investment company.

11 (7) "Financial institution" means a bank, national banking  
12 association, trust company, savings and loan association, building and  
13 loan association, mutual savings bank, credit union, payment processor or  
14 savings bank.

15 (8) "Financial services company" means a financial institution,  
16 insurance company or other company that provides investment services.

17 (9) "Fossil fuels" means coal, natural gas or oil.

18 (10) "Governmental entity" means:

19 (A) The state of Kansas or any political subdivision thereof,  
20 including, but not limited to, any county, city, municipality, agency, airport  
21 authority, community mental health center, drainage district, groundwater  
22 management district, hospital district, housing authority, metropolitan  
23 transit authority, port authority, public building commission, rural water  
24 district, school district or township; or

25 (B) any school, college, university, administration, authority or other  
26 enterprise operated by the state or any political subdivision thereof.

27 (11) "Governmental plan" means any plan, fund or program that is  
28 established, provided or maintained by a governmental entity to:

29 (A) Provide retirement income or other retirement benefits to  
30 employees or former employees;

31 (B) defer income by employees for a period of time extending to the  
32 termination of covered employment or beyond; or

33 (C) invest taxpayer money for any purpose.

34 (12) "Ideological boycott" means, without an ordinary business  
35 purpose, refusing to deal with, refusing or limiting investment in,  
36 terminating business activities with or otherwise taking any commercial  
37 action that is intended to penalize, inflict economic harm on, limit  
38 commercial relations with or change or limit the activities of a company  
39 because the company, without violating controlling state or federal law:

40 (A) Engages in the exploration, production, utilization, transportation,  
41 sale or manufacturing of fossil fuel-based energy and does not commit or  
42 pledge to meet environmental standards beyond applicable federal and  
43 state law;

1 (B) engages in the exploration, production, utilization, transportation,  
2 sale or manufacturing of nuclear energy and does not commit or pledge to  
3 meet environmental standards beyond applicable federal and state law;

4 (C) engages in production of agriculture;

5 (D) engages in production of lumber;

6 (E) engages in mining;

7 (F) engages in the exploration, production, utilization, transportation,  
8 sale or manufacturing of any other natural resource;

9 (G) emits greenhouse gases or does not disclose or offset such  
10 greenhouse gas emissions;

11 (H) engages, facilitates or supports the manufacture, import,  
12 distribution, marketing, advertising, lawful use or sale of firearms,  
13 ammunition or component parts and accessories of firearms or  
14 ammunition;

15 (I) does not meet, is not expected to meet or does not commit to meet  
16 environmental standards or disclosure criteria, in particular to eliminate,  
17 reduce, offset or disclose greenhouse gas emissions;

18 (J) is governed by a corporate board or other officers whose race,  
19 ethnicity, sex or sexual orientation meets or does not meet any criterion;

20 (K) does not facilitate or assist employees in obtaining abortions,  
21 assisted suicide or gender reassignment services; or

22 (L) engages with, facilitates, employs, supports, does business with,  
23 represents or advocates for any company described by any of  
24 subparagraphs (A) through (K).

25 (13) "Indirect holdings" means, with respect to a financial company,  
26 all securities of that financial company held in an account or fund, such as  
27 a mutual fund, managed by one or more persons not employed by the  
28 system, which owns shares or interests together with other investors not  
29 subject to the provisions of this act. "Indirect holdings" does not include  
30 money invested under a plan described by sections 401(k) or 457 of the  
31 federal internal revenue code.

32 (14) "Insurance company" means the same as defined in K.S.A. 40-  
33 201, and amendments thereto.

34 (15) "Listed financial company" means a financial company listed by  
35 the treasurer pursuant to section 7, and amendments thereto.

36 (16) "Natural resources" means fossil fuels, minerals, metal ores or  
37 any other nonrenewable or finite resource that cannot be readily replaced  
38 by natural means with the speed at which it is consumed.

39 (17) "Nonpecuniary factor" means any factor intended to further or  
40 promote any environmental, governance, ideological, political, social or  
41 other nontraditional goal or standard.

42 (18) (A) "Ordinary business purpose" means any purpose directly  
43 related to:

- 1 (i) Promoting the financial success or stability of a financial  
2 institution;
- 3 (ii) mitigating risk to a financial institution;
- 4 (iii) complying with legal or regulatory requirements; or
- 5 (iv) limiting liability of a financial institution.
- 6 (B) "Ordinary business purpose" does not mean any purpose to  
7 further social, political or ideological interests. A company may reasonably  
8 be determined to have taken an action or considered a factor with the  
9 purpose to further social, political or ideological interests based upon  
10 evidence indicating that such a purpose is included in, but not limited to:
- 11 (i) Branding, advertising, statements, explanations, reports, letters to  
12 clients, communications with portfolio companies, statements of principles  
13 or commitments; or
- 14 (ii) participating in, affiliation with or status as a signatory to any  
15 coalition, initiative, joint statement of principles or agreement.
- 16 (19) "Person" means any natural person, partnership, association,  
17 joint stock company, trust or corporation.
- 18 (20) "Registered investment adviser" means an investment adviser  
19 that provides financial or investment advice to clients and is registered  
20 either with the United States securities and exchange commission or with  
21 the state of Kansas under the Kansas uniform securities act, or both.
- 22 (21) "Restricted financial institution" means a financial institution  
23 included in the most recently updated restricted financial institution list.
- 24 (22) "Restricted financial institution list" means the list of financial  
25 institutions prepared, maintained and published by the treasurer pursuant  
26 to section 15, and amendments thereto.
- 27 (23) "Security" means any note, stock, treasury stock, security future,  
28 bond, debenture, evidence of indebtedness, certificate of interest or  
29 participation in any profit-sharing agreement, collateral-trust certificate,  
30 preorganization certificate or subscription, transferable share, investment  
31 contract, voting-trust certificate, certificate of deposit for a security,  
32 fractional undivided interest in oil, gas or other mineral rights, any put,  
33 call, straddle, option or privilege on any security, including a certificate of  
34 deposit, or on any group or index of securities, including any interest  
35 therein or based on the value thereof, or any put, call, straddle, option or  
36 privilege entered into on a national securities exchange relating to foreign  
37 currency or, in general, any interest or instrument commonly known as a  
38 "security," or any certificate of interest or participation in, temporary or  
39 interim certificate for, receipt for, guarantee of, or warrant or right to  
40 subscribe to or purchase any of the foregoing.
- 41 (24) "Social credit score" means any rating, scoring, analysis,  
42 assessment, list, standard, guidance, criterion or tabulation that includes,  
43 without violating controlling state or federal law, a negative assessment of

1 whether a person is engaging in any of the following lawful activities  
2 within this state:

3 (A) Not committing or pledging to meet environmental standards  
4 beyond applicable state or federal law in the exploration, production,  
5 utilization, transportation, sale or manufacturing of fossil fuel-based  
6 energy, nuclear energy, agriculture, timber, mining or any other natural  
7 resource;

8 (B) the emitting of greenhouse gases or refusing to disclose, reduce  
9 or offset such greenhouse gas emissions;

10 (C) not meeting, not expecting to meet or not committing to meet any  
11 environmental goals, including emissions, standards or disclosures;

12 (D) not meeting, not expecting to meet or not committing to meet any  
13 corporate board or company employment composition goals, including  
14 standards or disclosures based upon characteristics protected under K.S.A.  
15 44-1001 et seq., and amendments thereto;

16 (E) the manufacturing, distribution or sale of firearms, firearms  
17 accessories, ammunition or ammunition components;

18 (F) the governing of a corporate board or other officers whose race,  
19 ethnicity, sex or sexual orientation meets or does not meet any criterion;

20 (G) refusing to facilitate or assist employees in obtaining abortions,  
21 assisted suicide or gender reassignment services;

22 (H) exercising such person's freedom of speech as protected by either  
23 the first amendment to the constitution of the United States or section 11 of  
24 the Kansas bill of rights, if the financial services company were considered  
25 to be a state actor, including the person's political opinions, political  
26 speech, political donations, political affiliations or other expressive  
27 activities;

28 (I) exercising such person's free exercise of religion as protected by  
29 any of the first amendment to the constitution of the United States, the  
30 federal religious freedom restoration act of 1993, section 7 of the Kansas  
31 bill of rights or the Kansas preservation of religious freedom act, if the  
32 financial services company were considered to be a state actor, including  
33 all aspects of the person's religious observance and practice, as well as  
34 belief and affiliation; or

35 (J) engaging with, facilitating of, employing by, supporting of, doing  
36 business with, representing of or advocating for any person who does  
37 business with a person described by subparagraphs (A) through (I).

38 (25) "System" means the Kansas public employees retirement system.

39 (26) "Treasurer" means the state treasurer.

40 New Sec. 2. With respect to actions taken in compliance with this act,  
41 including all good faith determinations regarding financial companies as  
42 required by this act and any reliance on such good faith determinations, the  
43 state, the board, the system and the treasurer are exempt from any

1 conflicting statutory or common law obligations, including any obligations  
2 with respect to making investments, divesting from any investment,  
3 preparing or maintaining any list of financial companies or choosing asset  
4 managers, investment funds or investments for the system's securities  
5 portfolios.

6 New Sec. 3. In a cause of action based on an action, inaction,  
7 decision, divestment, investment, financial company communication,  
8 report or other determination made or taken in compliance with this act,  
9 without regard to whether the person performed services for  
10 compensation, the state shall indemnify and hold harmless for actual  
11 damages, court costs and attorney fees adjudged against, and defend:

12 (a) An employee, a member of the board or any other officer of the  
13 system;

14 (b) a contractor of the system;

15 (c) a former employee, a former member of the board or any other  
16 former officer of the system who was an employee, member of the board  
17 or other officer when the act or omission occurred on which the damages  
18 are based;

19 (d) a former contractor of the system who was a contractor when the  
20 act or omission occurred on which the damages are based; and

21 (e) the system.

22 New Sec. 4. (a) A person, including a member, retiree or beneficiary  
23 of the system, an association, a research firm, a financial company or any  
24 other person may not sue or pursue a private cause of action against the  
25 state, the board, the system or the treasurer for any claim or cause of  
26 action, including breach of fiduciary duty, or for violation of any  
27 constitutional, statutory or regulatory requirement in connection with any  
28 action, inaction, decision, divestment, investment, financial company  
29 communication, report or other determination made or taken in  
30 compliance with this act.

31 (b) A person who files suit against the state, the board, the system or  
32 the treasurer in violation of this section is liable for paying the costs and  
33 attorney fees of the party sued in violation of this section.

34 New Sec. 5. (a) No person, company or governmental entity shall  
35 take action to penalize or threaten to penalize any financial institution or  
36 financial company for complying with this act.

37 (b) Any party taking such action shall have caused harm to the state  
38 by interfering with the state's sovereign interests in administering the  
39 state's programs, the state's commercial relationship with financial  
40 institutions and the financial companies of this state.

41 New Sec. 6. The treasurer and the board may rely on a financial  
42 company's response to a notice or communication made under this act  
43 without conducting any further investigation, research or inquiry.

1 New Sec. 7. (a) The treasurer shall prepare, maintain and provide to  
2 the board a list of all financial companies that engage in ideological  
3 boycotts. Such list shall be known as the restricted financial company list.  
4 In maintaining the list, the treasurer may:

5 (1) Review and rely on publicly available information regarding  
6 financial companies, as appropriate in the treasurer's sole discretion,  
7 including information provided by the state, nonprofit organizations,  
8 research firms, international organizations and governmental entities; and

9 (2) request written verification from a financial company that such  
10 company does not engage in ideological boycotts.

11 (b) A financial company that fails to provide to the treasurer a written  
12 verification under subsection (a)(2) before the 31<sup>st</sup> day after receiving the  
13 request from the treasurer is presumed to be engaged in an ideological  
14 boycott.

15 (c) In determining whether to include a financial company on the  
16 restricted financial company list, the treasurer shall consider, but not be  
17 limited to, the following:

18 (1) A financial company's certification that it is not engaged in  
19 ideological boycotts;

20 (2) publicly available statements or information made by the financial  
21 company, including statements by a member of such financial company's  
22 governing body, an executive director of the financial company or any  
23 other officer or employee of the financial company with the authority to  
24 issue policy statements on behalf of such financial company; and

25 (3) information published by a state or federal governmental entity.

26 (d) In determining whether to include a financial company on the  
27 restricted financial company list, the treasurer shall not rely solely on the  
28 following:

29 (1) Statements or complaints by a boycotted company; or

30 (2) media reports of a financial company's ideological boycott.

31 (e) A financial company shall not be compelled to produce or disclose  
32 any data or information deemed confidential, privileged or otherwise  
33 protected from disclosure by state or federal law.

34 (f) For any financial company that the treasurer determines is  
35 engaged in an ideological boycott, the treasurer shall send a written notice  
36 to such financial company at least 45 days prior to including such financial  
37 company on the restricted financial company list. Such written notice shall  
38 state that:

39 (1) The treasurer has determined that the financial company is a  
40 restricted financial company;

41 (2) the financial company will be placed on the restricted financial  
42 company list in 45 days unless, within 30 days following receipt of the  
43 written notice, the restricted financial company demonstrates that such

1 financial company is not engaged in an ideological boycott; and

2 (3) such restricted financial list is published on the treasurer's website  
3 and sent to the board, the president of the senate, the speaker of the house  
4 of representatives and the attorney general.

5 (g) Following a restricted financial company's inclusion on the  
6 restricted financial company list, the treasurer shall remove such financial  
7 company from such list if the financial company demonstrates that such  
8 financial company has ceased all ideological boycotts.

9 (h) The treasurer shall update the list annually or more often as the  
10 treasurer considers necessary, but not more often than quarterly, based on  
11 information from sources listed in subsection (a), among other sources.

12 (i) Not later than the 30<sup>th</sup> day after the date the list of financial  
13 companies that engage in ideological boycotts is first provided to the board  
14 or updated, the treasurer shall file the list with the president of the senate,  
15 the speaker of the house of representatives and the attorney general and  
16 post the list on the treasurer's website in a location that is easily accessible  
17 to the public. The treasurer shall include at the top of such list a citation to  
18 this section, a brief summary of the purpose of the list and a statement that  
19 inclusion on the list is not an indication of unsafe or unsound operating  
20 conditions of any financial institution or any risk of consumer deposits.

21 New Sec. 8. Not later than the 30<sup>th</sup> day after the date the board  
22 receives the list provided under section 7, and amendments thereto, the  
23 board shall notify the treasurer of the listed financial companies in which  
24 the system owns direct holdings or indirect holdings.

25 New Sec. 9. (a) For each listed financial company identified under  
26 section 8, and amendments thereto, the board shall send a written notice:

27 (1) Informing the financial company of its status as a listed financial  
28 company;

29 (2) warning the financial company that it may become subject to  
30 divestment by the board after the expiration of the period prescribed by  
31 subsection (b); and

32 (3) offering the financial company the opportunity to clarify its  
33 activities related to companies prescribed by section 1(b)(4), and  
34 amendments thereto.

35 (b) Not later than the 90<sup>th</sup> day after the date the financial company  
36 receives notice under subsection (a), the financial company shall cease  
37 engaging in ideological boycotts in order to avoid divestment by the board.

38 (c) If, during the time provided by subsection (b), the financial  
39 company ceases engaging in ideological boycotts, the treasurer shall  
40 remove the financial company from the list maintained under section 7,  
41 and amendments thereto. In which case, the provisions of this act shall no  
42 longer apply to such financial company unless such financial company  
43 resumes engaging in ideological boycotts.



1 (d) If, after the time provided by subsection (b) expires, the financial  
2 company continues to engage in ideological boycotts, the board shall sell,  
3 redeem, divest or withdraw all publicly traded securities of the financial  
4 company, except securities described by section 11, and amendments  
5 thereto, according to the schedule provided by section 10, and  
6 amendments thereto.

7 New Sec. 10. (a) When the board is required to sell, redeem, divest or  
8 withdraw all publicly traded securities of a listed financial company, the  
9 board shall comply with the following schedule:

10 (1) At least 50% of those assets shall be removed from the system's  
11 assets under management not later than the 180<sup>th</sup> day after the date the  
12 financial company receives notice under section 9, and amendments  
13 thereto, or subsection (b) unless the board determines that a later date is  
14 more prudent, based on a good faith exercise of the board's fiduciary  
15 discretion and subject to paragraph (2); and

16 (2) 100% of such assets shall be removed from the system's assets  
17 under management not later than the 360<sup>th</sup> day after the date the financial  
18 company receives notice under section 9, and amendments thereto, or  
19 subsection (b).

20 (b) If a financial company that ceased engaging in ideological  
21 boycotts after receiving notice under section 9, and amendments thereto,  
22 resumes such financial company's boycott, the board shall send a written  
23 notice to the financial company informing such financial company that the  
24 board will sell, redeem, divest or withdraw all publicly traded securities of  
25 the financial company according to the schedule in subsection (a).

26 (c) Except as provided by subsection (a), the board may delay the  
27 schedule for divestment under such subsection only to the extent that the  
28 board determines, in the board's good faith judgment and consistent with  
29 the board's fiduciary duty, that divestment from listed financial companies  
30 will likely result in a loss in value or a benchmark deviation as provided  
31 by section 12(b), and amendments thereto. If the board delays the schedule  
32 for divestment, the board shall submit a report to the treasurer, the  
33 president of the senate, the speaker of the house of representatives and the  
34 attorney general stating the reasons and justification for the board's delay  
35 in divestment from listed financial companies. The report shall include  
36 documentation supporting the board's determination that the divestment  
37 would result in a loss in value or a benchmark deviation as provided by  
38 section 12(b), and amendments thereto, including objective numerical  
39 estimates. The board shall update the report every six months.

40 New Sec. 11. The board is also required to divest from any indirect  
41 holdings in actively or passively managed investment funds or private  
42 equity funds containing listed financial companies. The board shall submit  
43 letters to the managers of each investment fund containing listed financial

1 companies requesting that they remove such financial companies from the  
2 fund or create a similar actively or passively managed fund with indirect  
3 holdings devoid of listed financial companies. If a manager creates a  
4 similar fund with substantially the same management fees and  
5 substantially the same level of investment risk and anticipated return, the  
6 board may replace all applicable investments with investments in the  
7 similar fund in a time frame consistent with prudent fiduciary standards  
8 but not later than the 450<sup>th</sup> day after the date the fund is created. If a  
9 manager does not create such similar fund, the board shall divest from  
10 such indirect holdings in actively or passively managed investment funds  
11 or private equity funds.

12 New Sec. 12. (a) Except as provided by this section, the system may  
13 not acquire securities of a listed financial company.

14 (b) The board may cease divesting from one or more listed financial  
15 companies only if clear and convincing evidence shows that:

16 (1) The system has suffered or will suffer a greater than 25% loss in  
17 the hypothetical value of all assets under management by the system as a  
18 result of having to divest from listed financial companies under this act; or

19 (2) an individual portfolio that uses a benchmark-aware strategy  
20 would be subject to an aggregate expected deviation from its benchmark of  
21 greater than 25% as a result of having to divest from listed financial  
22 companies under this act.

23 (c) The board may cease divesting from a listed financial company as  
24 provided by this section only to the extent necessary to ensure that the  
25 system does not suffer a loss in value or deviate from its benchmark as  
26 described by subsection (b).

27 (d) Before the board may cease divesting from a listed financial  
28 company under this section, the board shall provide a written report to the  
29 treasurer, the president of the senate, the speaker of the house of  
30 representatives and the attorney general stating the reason and  
31 justification, supported by clear and convincing evidence, for deciding to  
32 cease divestment or to remain invested in a listed financial company.

33 (e) The board shall update the report required by subsection (d)  
34 semiannually, as applicable.

35 (f) This section does not apply to reinvestment in a financial company  
36 that is no longer a listed financial company.

37 New Sec. 13. Not later than the first day of the regular session of the  
38 legislature, each year, the board shall file a report with the treasurer, the  
39 president of the senate, the speaker of the house of representatives and the  
40 attorney general that:

41 (a) Identifies all securities sold, redeemed, divested or withdrawn in  
42 compliance with section 10, and amendments thereto;

43 (b) identifies all prohibited investments under section 12, and

1 amendments thereto; and

2 (c) summarizes any changes made under section 11, and amendments  
3 thereto.

4 New Sec. 14. The attorney general may bring any action necessary to  
5 enforce the provisions of sections 1 through 14, and amendments thereto,  
6 and to investigate potential violations of sections 1 through 14, and  
7 amendments thereto.

8 New Sec. 15. (a) On or before July 1, 2024, the treasurer shall  
9 prepare and maintain a list of financial institutions that are engaged  
10 ideological boycotts.

11 (b) The treasurer shall post the list, designated as a restricted financial  
12 institutions list, on the treasurer's website and submit a copy of such list to  
13 the governor, the attorney general, the president of the senate and the  
14 speaker of the house of representatives.

15 (c) The treasurer shall include a citation to this section and a brief  
16 summary of the purpose of the list at the top of such list, including a  
17 statement that inclusion on the list is not an indication of unsafe or  
18 unsound operating conditions of any financial institution or any risk of  
19 consumer deposits.

20 (d) The treasurer shall update the restricted financial institution list  
21 annually and may update such list more frequently as the treasurer deems  
22 necessary.

23 New Sec. 16. (a) The treasurer shall send a written notice to a  
24 financial institution 45 days prior to including such financial institution on  
25 the restricted financial institution list. Such written notice shall provide  
26 that:

27 (1) The treasurer has determined that the financial institution is a  
28 restricted financial institution;

29 (2) the financial institution will be placed on the restricted financial  
30 institution list in 45 days unless, within 30 days following receipt of the  
31 written notice, the restricted financial institution demonstrates that such  
32 financial institution is not engaged in ideological boycotts;

33 (3) such restricted financial institution list is published on the  
34 treasurer's website; and

35 (4) the financial institution's placement on the list may render such  
36 financial institution ineligible to enter into or renew any banking contracts  
37 with the state of Kansas.

38 (b) Following a restricted financial institution's inclusion on the  
39 restricted financial institution list, the treasurer shall remove such financial  
40 institution from such list if the financial institution demonstrates that such  
41 financial institution has ceased engaging in ideological boycotts.

42 New Sec. 17. (a) In determining whether to include a financial  
43 institution on the restricted financial institution list, the treasurer shall

1 consider, but not be limited to, the following:

2 (1) A financial institution's certification that it is not engaged in  
3 ideological boycotts;

4 (2) publicly available statements or information made by the financial  
5 institution, including statements by a member of such financial institution's  
6 governing body, an executive director of the financial institution or any  
7 other officer or employee of the financial institution with the authority to  
8 issue policy statements on behalf of such financial institution; or

9 (3) information published by a state or federal governmental entity.

10 (b) In determining whether to include a financial institution on the  
11 restricted financial institution list, the treasurer shall not rely solely on the  
12 following:

13 (1) Statements or complaints by a boycotted company; or

14 (2) media reports of a financial institution's engaging in ideological  
15 boycotts.

16 (c) A financial institution shall not be compelled to produce or  
17 disclose any data or information deemed confidential, privileged or  
18 otherwise protected from disclosure by state or federal law.

19 New Sec. 18. Notwithstanding any provision of article 42 of chapter  
20 75 of the Kansas Statutes Annotated, and amendments thereto, to the  
21 contrary, the treasurer is authorized to: (a) Disqualify a financial  
22 institution on the restricted financial institution list from the awarding of  
23 an agreement to receive deposit of state moneys in operating accounts or  
24 investment accounts in accordance with K.S.A. 75-4205 or 75-4209, and  
25 amendments thereto, or from any other official selection process to enter  
26 into a banking contract with the state;

27 (b) refuse to enter into a banking contract with a restricted financial  
28 institution based on such financial institution's inclusion on the restricted  
29 financial institution list; and

30 (c) require, as a provision of any banking contract commencing on or  
31 after July 1, 2024, an agreement by the financial institution not to engage  
32 in ideological boycotts for the duration of the contract.

33 New Sec. 19. A public agency, public official, public employee or  
34 member or employee of a financial institution shall be immune from  
35 liability with respect to actions taken in compliance with this act.

36 New Sec. 20. (a) Except as provided in subsection (b), the provisions  
37 of this act shall apply to all contracts for deposit of state moneys for terms  
38 commencing on or after July 1, 2024, and shall not apply to contracts for  
39 terms ending prior to July 1, 2024.

40 (b) The provisions of sections 15 through 19, and amendments  
41 thereto, shall apply only to financial institutions with total assets of  
42 \$20,000,000,000 or greater.

43 New Sec. 21. (a) This section shall apply only to a contract that:

1 (1) Is between a governmental entity and a company with 10 or more  
2 full-time employees; and

3 (2) has a value of \$100,000 or more that is to be paid wholly or partly  
4 from public funds of the governmental entity.

5 (b) Except as provided in subsection (c), a governmental entity shall  
6 not enter into a contract with a company for goods or services unless the  
7 contract contains a written verification from the company that such  
8 company:

9 (1) Does not engage in ideological boycotts; and

10 (2) will not engage in ideological boycotts during the term of the  
11 contract.

12 (c) The provisions of subsection (b) shall not apply to a contract if the  
13 governmental entity determines and documents that the goods or services  
14 are not otherwise available on commercially reasonable terms or if  
15 subsection (b) is determined to be inconsistent with the governmental  
16 entity's constitutional or statutory duties.

17 (d) The provisions of this section shall apply to all contracts entered  
18 into on or after July 1, 2023. A contract entered into before such date is  
19 governed by the law in effect on the date the contract was entered into, and  
20 the former law is continued in effect for that purpose.

21 New Sec. 22. (a) A fiduciary shall discharge the fiduciary's duties  
22 with respect to a governmental plan solely in the financial interest of the  
23 participants and beneficiaries of the governmental plan for the exclusive  
24 purpose of providing financial benefit to the participants and beneficiaries,  
25 defraying reasonable expenses of administering the governmental plan.

26 (b) A fiduciary shall only consider pecuniary factors when evaluating  
27 an investment or otherwise discharging such fiduciary's duties with respect  
28 to a governmental plan. A fiduciary shall not consider any nonpecuniary  
29 factors when evaluating an investment or discharging such fiduciary's  
30 duties with respect to a governmental plan.

31 (c) A fiduciary may reasonably be determined to have considered  
32 nonpecuniary factors based upon evidence indicating an intent to further  
33 an ideological boycott through portfolio company engagement, board or  
34 shareholder votes or otherwise as a fiduciary. Such evidence may include,  
35 but not be limited to:

36 (1) Branding, advertising, statements, explanations, reports, letters to  
37 clients, communications with portfolio companies, statements of principles  
38 or commitments; or

39 (2) participation in, affiliation with or status as a signatory to, any  
40 coalition, initiative, joint statement of principles or agreement.

41 New Sec. 23. (a) A governmental entity that establishes, maintains or  
42 manages a governmental plan shall not grant proxy voting authority to any  
43 person who is not a part of the governmental entity, unless such person

1 follows guidelines consistent with the governmental entity's obligation to  
2 consider only pecuniary factors.

3 (b) Any shares held directly or indirectly by a governmental plan  
4 shall be voted only in the financial interest of the governmental plan. Such  
5 shares shall not be voted to further nonpecuniary factors. No governmental  
6 plan assets shall be entrusted to any fiduciary that engages with companies  
7 or commits voting shares based upon nonpecuniary factors.

8 (c) A fiduciary or governmental entity administering a governmental  
9 plan shall not adopt a practice of following the recommendations of a  
10 proxy advisory firm or other service provider unless the proxy advisory  
11 firm's or the service provider's voting guidelines are consistent with the  
12 fiduciary's or governmental entity's obligation to act only on pecuniary  
13 factors.

14 (d) Unless no economically practicable alternative is available,  
15 governmental plan public retirement system assets shall not be entrusted to  
16 a fiduciary, unless that fiduciary has a practice of, and in writing commits  
17 to, following guidelines when engaging with portfolio companies and  
18 voting shares or proxies that match the governmental entity's obligation to  
19 act solely upon pecuniary factors.

20 (e) All proxy votes shall be tabulated and reported annually to the  
21 board. For each vote, the report shall contain a vote caption, the plan's  
22 vote, the recommendation of company management and, if applicable, the  
23 proxy advisor's recommendation. Such reports shall be posted on the  
24 system's website for review by the public.

25 (f) The provisions of sections 21 through 23, and amendments  
26 thereto, or any contract subject to the provisions of sections 21 through 23,  
27 and amendments thereto, may be enforced by the attorney general. The  
28 attorney general may investigate possible violations of sections 21 through  
29 23, and amendments thereto, according to the investigative authority  
30 provided in K.S.A. 50-631, and amendments thereto.

31 (g) In addition to any other remedies available at law or equity, a  
32 company who serves as a fiduciary and who violates the provisions of  
33 sections 21 through 23, and amendments thereto, shall be obligated to pay  
34 damages to the governmental entity in an amount equal to three times all  
35 moneys paid to the company by the governmental entity for the company's  
36 services.

37 New Sec. 24. (a) To provide fair access to financial services, a  
38 financial services company shall not:

39 (1) Discriminate in the provision of financial services against a  
40 person based on the person's social credit score, including by refusing to  
41 provide a person new or ongoing financial services of any kind, refraining  
42 from continuing to provide a person existing financial services,  
43 terminating a person's existing financial services or refusing to make each

1 financial service such financial services company offers to all persons in  
2 the geographic market served by the financial services company on a  
3 nondiscriminatory basis;

4 (2) agree, conspire or coordinate, directly or indirectly, including  
5 through any intermediary or third party, with another company or group of  
6 companies, to discriminate in the provision of financial services against a  
7 person based on the person's social credit score, including by refusing to  
8 provide a person new or ongoing financial services of any kind, refraining  
9 from continuing to provide a person existing financial services,  
10 terminating a person's existing financial services, or deny any person a  
11 financial service such financial services company offers except to the  
12 extent justified by such person's documented failure to meet quantitative,  
13 impartial risk-based financial standards established in advance by such  
14 financial services company;

15 (3) deny any person a financial service such financial services  
16 company offers, other than as provided by paragraph (2), when the effect  
17 of the denial is to prevent, limit or otherwise disadvantage the person:

18 (A) From entering or competing in a market or business segment; or

19 (B) in such a way that benefits another person or business activity in  
20 which the financial services company has a financial interest; and

21 (4) deny, in coordination with others, any person a financial service  
22 such financial services company offers.

23 New Sec. 25. (a) A financial services company shall not utilize  
24 standards or guidelines based on nonfinancial or ideological criteria,  
25 including the criteria constituting an ideological boycott as defined in  
26 section 1, and amendments thereto, in determining whether or not to  
27 provide any financial service to a person or company.

28 (b) A financial services company shall disclose to any person or  
29 company denied a financial service with the specific data, information,  
30 criteria and standard used to support such denial. Such disclosure shall be  
31 provided in writing in bold 14-point font.

32 New Sec. 26. (a) (1) Except as provided in paragraph (2), a financial  
33 services company that violates the provisions of sections 24 through 27,  
34 and amendments thereto, commits a deceptive act or practice and shall be  
35 subject to enforcement by the attorney general pursuant to K.S.A. 50-626,  
36 and amendments thereto.

37 (2) A financial services company that is a credit union that violates  
38 the provisions of sections 24 through 27, and amendments thereto,  
39 commits an unsound practice and shall be subject to civil enforcement by  
40 the credit union administrator pursuant to K.S.A. 17-2206, and  
41 amendments thereto.

42 (b) An insurance company that violates the provisions of sections 24  
43 through 27, and amendments thereto, commits an unfair or deceptive act or

1 practice under K.S.A. 40-2404, and amendments thereto, and shall be  
2 subject to the penalties contained under K.S.A. 40-2401 et seq., and  
3 amendments thereto.

4 (c) Notwithstanding enforcement under subsection (a) or (b), upon  
5 conviction of five or more violations of this act, a financial services  
6 company shall be guilty of a class C nonperson misdemeanor.

7 New Sec. 27. The state bank commissioner, the commissioner of  
8 insurance and the credit union administrator shall adopt rules and  
9 regulations for the enforcement of sections 24 through 27, and  
10 amendments thereto. Such rules and regulations shall be adopted on or  
11 before July 1, 2024.

12 New Sec. 28. (a) A registered investment adviser shall disclose to  
13 such registered investment adviser's clients, prior to the investment of any  
14 moneys owned by the client in or through any mutual fund, actively or  
15 passively managed equity fund, company or financial institution that is  
16 engaged in ideological boycotts, is a listed financial company or is on the  
17 restricted financial institutions list prepared, maintained and published by  
18 the treasurer pursuant to section 15, and amendments thereto, that such  
19 mutual fund, actively or passively managed equity fund, company or  
20 financial institution is engaged in ideological boycotts and that such  
21 ideological boycotts may limit the client's return on investment.

22 (b) Prior to the investment of a client's funds, a registered investment  
23 adviser shall obtain written consent from such registered investment  
24 adviser's client stating that the client is fully aware of and consents to the  
25 investment of funds owned by the client or through any mutual fund,  
26 actively or passively managed equity fund, company or financial  
27 institution that is engaged in ideological boycotts. Such written consent  
28 shall consist of the following disclosure:

29 "The institution managing this fund is engaged in ideological boycotts.  
30 If such boycotts are used in managing your fund, these boycotts may  
31 reduce the fund's returns compared to the fund's historical performance or  
32 the performance of funds that do not use ideological boycotts. You may  
33 have the option to chose a similar fund that does not use ideological  
34 boycotts. By signing below, you consent to have your investment managed  
35 by this institution even if the institution engages in ideological boycott  
36 investment practices that may reduce your returns compared to historical  
37 performance or other funds."

38 (c) Conduct prohibited by this section shall be considered an act,  
39 practice or course of business that operates or would operate as a fraud or  
40 deceit in accordance with K.S.A. 17-12a502, and amendments thereto.

41 (d) Nothing in this section shall be construed to establish any  
42 requirements for registration, capital, custody, margin, financial  
43 responsibility, making and keeping of records, bonding or financial or



1 operational reporting for a registered investment adviser that differ from  
2 the requirements established under federal law to the extent that such  
3 requirements are applicable to the registered investment adviser.

4 (e) The provisions of this section, or any contract or practice subject  
5 to this section, may be enforced by the attorney general. The attorney  
6 general may investigate possible violations of this section in accordance  
7 with the provisions of K.S.A. 50-631, and amendments thereto.

8 New Sec. 29. The provisions of this act are severable. If any portion  
9 of the act is declared unconstitutional or invalid, or the application of any  
10 portion of the act to any person or circumstance is held unconstitutional or  
11 invalid, the invalidity shall not affect other portions of the act that can be  
12 given effect without the invalid portion or application, and the  
13 applicability of such other portions of the act to any person or  
14 circumstance shall remain valid and enforceable.

15 Sec. 30. K.S.A. 40-2404 is hereby amended to read as follows: 40-  
16 2404. The following are hereby defined as unfair methods of competition  
17 and unfair or deceptive acts or practices in the business of insurance:

18 (1) *Misrepresentations and false advertising of insurance policies.*  
19 Making, issuing, circulating or causing to be made, issued or circulated,  
20 any estimate, illustration, circular, statement, sales presentation, omission  
21 or comparison that:

22 (a) Misrepresents the benefits, advantages, conditions or terms of any  
23 insurance policy;

24 (b) misrepresents the dividends or share of the surplus to be received  
25 on any insurance policy;

26 (c) makes any false or misleading statements as to the dividends or  
27 share of surplus previously paid on any insurance policy;

28 (d) is misleading or is a misrepresentation as to the financial  
29 condition of any person, or as to the legal reserve system upon which any  
30 life insurer operates;

31 (e) uses any name or title of any insurance policy or class of  
32 insurance policies misrepresenting the true nature thereof;

33 (f) is a misrepresentation for the purpose of inducing or tending to  
34 induce the lapse, forfeiture, exchange, conversion or surrender of any  
35 insurance policy;

36 (g) is a misrepresentation for the purpose of effecting a pledge or  
37 assignment of or effecting a loan against any insurance policy; or

38 (h) misrepresents any insurance policy as being shares of stock.

39 (2) *False information and advertising generally.* Making, publishing,  
40 disseminating, circulating or placing before the public, or causing, directly  
41 or indirectly, to be made, published, disseminated, circulated or placed  
42 before the public, in a newspaper, magazine or other publication, or in the  
43 form of a notice, circular, pamphlet, letter or poster, or over any radio or

1 television station, or in any other way, an advertisement, announcement or  
2 statement containing any assertion, misrepresentation or statement with  
3 respect to the business of insurance or with respect to any person in the  
4 conduct of such person's insurance business, that is untrue, deceptive or  
5 misleading.

6 (3) *Defamation.* Making, publishing, disseminating or circulating,  
7 directly or indirectly, or aiding, abetting or encouraging the making,  
8 publishing, disseminating or circulating of any oral or written statement or  
9 any pamphlet, circular, article or literature that is false, or maliciously  
10 critical of or derogatory to the financial condition of any person, and that  
11 is calculated to injure such person.

12 (4) *Boycott, coercion and intimidation.* Entering into any agreement  
13 to commit, or by any concerted action committing, any act of boycott,  
14 coercion or intimidation resulting in or tending to result in unreasonable  
15 restraint of the business of insurance, or by any act of boycott, coercion or  
16 intimidation monopolizing or attempting to monopolize any part of the  
17 business of insurance.

18 (5) *False statements and entries.* (a) Knowingly filing with any  
19 supervisory or other public official, or knowingly making, publishing,  
20 disseminating, circulating or delivering to any person, or placing before  
21 the public, or knowingly causing directly or indirectly, to be made,  
22 published, disseminated, circulated, delivered to any person, or placed  
23 before the public, any false material statement of fact as to the financial  
24 condition of a person.

25 (b) Knowingly making any false entry of a material fact in any book,  
26 report or statement of any person or knowingly omitting to make a true  
27 entry of any material fact pertaining to the business of such person in any  
28 book, report or statement of such person.

29 (6) *Stock operations and advisory board contracts.* Issuing or  
30 delivering or permitting agents, officers or employees to issue or deliver,  
31 agency company stock or other capital stock, or benefit certificates or  
32 shares in any common-law corporation, or securities or any special or  
33 advisory board contracts or other contracts of any kind promising returns  
34 and profits as an inducement to insurance. Nothing herein shall prohibit  
35 the acts permitted by K.S.A. 40-232, and amendments thereto.

36 (7) *Unfair discrimination.* (a) Making or permitting any unfair  
37 discrimination between individuals of the same class and equal expectation  
38 of life in the rates charged for any contract of life insurance or life annuity  
39 or in the dividends or other benefits payable thereon, or in any other of the  
40 terms and conditions of such contract.

41 (b) Making or permitting any unfair discrimination between  
42 individuals of the same class and of essentially the same hazard in the  
43 amount of premium, policy fees or rates charged for any policy or contract

1 of accident or health insurance or in the benefits payable thereunder, or in  
2 any of the terms or conditions of such contract, or in any other manner  
3 whatever.

4 (c) Refusing to insure, or refusing to continue to insure, or limiting  
5 the amount, extent or kind of coverage available to an individual, or  
6 charging an individual a different rate for the same coverage solely  
7 because of blindness or partial blindness. With respect to all other  
8 conditions, including the underlying cause of the blindness or partial  
9 blindness, persons who are blind or partially blind shall be subject to the  
10 same standards of sound actuarial principles or actual or reasonably  
11 anticipated experience as are sighted persons. Refusal to insure includes  
12 denial by an insurer of disability insurance coverage on the grounds that  
13 the policy defines "disability" as being presumed in the event that the  
14 insured loses such person's eyesight. However, an insurer may exclude  
15 from coverage disabilities consisting solely of blindness or partial  
16 blindness when such condition existed at the time the policy was issued.

17 (d) Refusing to insure, or refusing to continue to insure, or limiting  
18 the amount, extent or kind of coverage available for accident and health  
19 and life insurance to an applicant who is the proposed insured or charge a  
20 different rate for the same coverage or excluding or limiting coverage for  
21 losses or denying a claim incurred by an insured as a result of abuse based  
22 on the fact that the applicant who is the proposed insured is, has been, or  
23 may be the subject of domestic abuse, except as provided in subsection (7)  
24 (d)(v). "Abuse" as used in this paragraph means one or more acts defined  
25 in K.S.A. 60-3102, and amendments thereto, between family members,  
26 current or former household members, or current or former intimate  
27 partners.

28 (i) An insurer may not ask an applicant for life or accident and health  
29 insurance who is the proposed insured if the individual is, has been or may  
30 be the subject of domestic abuse or seeks, has sought or had reason to seek  
31 medical or psychological treatment or counseling specifically for abuse,  
32 protection from abuse or shelter from abuse.

33 (ii) Nothing in this section shall be construed to prohibit a person  
34 from declining to issue an insurance policy insuring the life of an  
35 individual who is, has been or has the potential to be the subject of abuse if  
36 the perpetrator of the abuse is the applicant or would be the owner of the  
37 insurance policy.

38 (iii) No insurer that issues a life or accident and health policy to an  
39 individual who is, has been or may be the subject of domestic abuse shall  
40 be subject to civil or criminal liability for the death or any injuries suffered  
41 by that individual as a result of domestic abuse.

42 (iv) No person shall refuse to insure, refuse to continue to insure,  
43 limit the amount, extent or kind of coverage available to an individual or

1 charge a different rate for the same coverage solely because of physical or  
2 mental condition, except where the refusal, limitation or rate differential is  
3 based on sound actuarial principles.

4 (v) Nothing in this section shall be construed to prohibit a person  
5 from underwriting or rating a risk on the basis of a preexisting physical or  
6 mental condition, even if such condition has been caused by abuse,  
7 provided that:

8 (A) The person routinely underwrites or rates such condition in the  
9 same manner with respect to an insured or an applicant who is not a victim  
10 of abuse;

11 (B) the fact that an individual is, has been or may be the subject of  
12 abuse may not be considered a physical or mental condition; and

13 (C) such underwriting or rating is not used to evade the intent of this  
14 section or any other provision of the Kansas insurance code.

15 (vi) Any person who underwrites or rates a risk on the basis of  
16 preexisting physical or mental condition as set forth in subsection (7)(d)  
17 (v), shall treat such underwriting or rating as an adverse underwriting  
18 decision pursuant to K.S.A. 40-2,112, and amendments thereto.

19 (vii) The provisions of this paragraph shall apply to all policies of life  
20 and accident and health insurance issued in this state after the effective  
21 date of this act and all existing contracts that are renewed on or after the  
22 effective date of this act.

23 (e) Refusing to insure, or refusing to continue to insure, or limiting  
24 the amount, extent or kind of coverage available for life insurance to an  
25 individual, or charging an individual a different rate for the same coverage,  
26 solely because of such individual's status as a living organ donor. With  
27 respect to all other conditions, persons who are living organ donors shall  
28 be subject to the same standards of sound actuarial principles or actual or  
29 reasonably anticipated experience as are persons who are not organ  
30 donors.

31 (8) *Rebates.* (a) Except as otherwise expressly provided by law,  
32 knowingly permitting, offering to make or making any contract of life  
33 insurance, life annuity or accident and health insurance, or agreement as to  
34 such contract other than as plainly expressed in the insurance contract  
35 issued thereon; paying, allowing, giving or offering to pay, allow or give,  
36 directly or indirectly, as inducement to such insurance, or annuity, any  
37 rebate of premiums payable on the contract, any special favor or advantage  
38 in the dividends or other benefits thereon, or any valuable consideration or  
39 inducement whatever not specified in the contract; or giving, selling,  
40 purchasing or offering to give, sell or purchase as inducement to such  
41 insurance contract or annuity or in connection therewith, any stocks, bonds  
42 or other securities of any insurance company or other corporation,  
43 association or partnership, or any dividends or profits accrued thereon, or

1 anything of value whatsoever not specified in the contract.

2 (b) Nothing in subsection (7) or (8)(a) shall be construed as including  
3 within the definition of discrimination or rebates any of the following  
4 practices:

5 (i) In the case of any contract of life insurance or life annuity, paying  
6 bonuses to policyholders or otherwise abating their premiums in whole or  
7 in part out of surplus accumulated from nonparticipating insurance. Any  
8 such bonuses or abatement of premiums shall be fair and equitable to  
9 policyholders and for the best interests of the company and its  
10 policyholders;

11 (ii) in the case of life insurance policies issued on the industrial debit  
12 plan, making allowance to policyholders who have continuously for a  
13 specified period made premium payments directly to an office of the  
14 insurer in an amount that fairly represents the saving in collection  
15 expenses; or

16 (iii) readjustment of the rate of premium for a group insurance policy  
17 based on the loss or expense experience thereunder, at the end of the first  
18 or any subsequent policy year of insurance thereunder, which may be  
19 made retroactive only for such policy year.

20 (9) *Unfair claim settlement practices.* It is an unfair claim settlement  
21 practice if any of the following or any rules and regulations pertaining  
22 thereto are either committed flagrantly and in conscious disregard of such  
23 provisions, or committed with such frequency as to indicate a general  
24 business practice:

25 (a) Misrepresenting pertinent facts or insurance policy provisions  
26 relating to coverages at issue;

27 (b) failing to acknowledge and act reasonably promptly upon  
28 communications with respect to claims arising under insurance policies;

29 (c) failing to adopt and implement reasonable standards for the  
30 prompt investigation of claims arising under insurance policies;

31 (d) refusing to pay claims without conducting a reasonable  
32 investigation based upon all available information;

33 (e) failing to affirm or deny coverage of claims within a reasonable  
34 time after proof of loss statements have been completed;

35 (f) not attempting in good faith to effectuate prompt, fair and  
36 equitable settlements of claims in which liability has become reasonably  
37 clear;

38 (g) compelling insureds to institute litigation to recover amounts due  
39 under an insurance policy by offering substantially less than the amounts  
40 ultimately recovered in actions brought by such insureds;

41 (h) attempting to settle a claim for less than the amount to which a  
42 reasonable person would have believed that such person was entitled by  
43 reference to written or printed advertising material accompanying or made

1 part of an application;

2 (i) attempting to settle claims on the basis of an application that was  
3 altered without notice to, or knowledge or consent of the insured;

4 (j) making claims payments to insureds or beneficiaries not  
5 accompanied by a statement setting forth the coverage under which  
6 payments are being made;

7 (k) making known to insureds or claimants a policy of appealing from  
8 arbitration awards in favor of insureds or claimants for the purpose of  
9 compelling them to accept settlements or compromises less than the  
10 amount awarded in arbitration;

11 (l) delaying the investigation or payment of claims by requiring an  
12 insured, claimant or the physician of either to submit a preliminary claim  
13 report and then requiring the subsequent submission of formal proof of  
14 loss forms, both of which submissions contain substantially the same  
15 information;

16 (m) failing to promptly settle claims, where liability has become  
17 reasonably clear, under one portion of the insurance policy coverage in  
18 order to influence settlements under other portions of the insurance policy  
19 coverage; or

20 (n) failing to promptly provide a reasonable explanation of the basis  
21 in the insurance policy in relation to the facts or applicable law for denial  
22 of a claim or for the offer of a compromise settlement.

23 (10) *Failure to maintain complaint handling procedures.* Failure of  
24 any person, who is an insurer on an insurance policy, to maintain a  
25 complete record of all the complaints that it has received since the date of  
26 its last examination under K.S.A. 40-222, and amendments thereto; but no  
27 such records shall be required for complaints received prior to the effective  
28 date of this act. The record shall indicate the total number of complaints,  
29 their classification by line of insurance, the nature of each complaint, the  
30 disposition of the complaints, the date each complaint was originally  
31 received by the insurer and the date of final disposition of each complaint.  
32 For purposes of this subsection, "complaint" means any written  
33 communication primarily expressing a grievance related to the acts and  
34 practices set out in this section.

35 (11) *Misrepresentation in insurance applications.* Making false or  
36 fraudulent statements or representations on or relative to an application for  
37 an insurance policy, for the purpose of obtaining a fee, commission,  
38 money or other benefit from any insurer, agent, broker or individual.

39 (12) *Statutory violations.* (a) Any violation of any of the provisions of  
40 K.S.A. 40-216, 40-276a, 40-2,155 or 40-1515, and amendments thereto.

41 (b) *Any violation of the provisions of sections 24 through 27, and*  
42 *amendments thereto.*

43 (13) *Disclosure of information relating to adverse underwriting*

1 *decisions and refund of premiums.* Failing to comply with the provisions of  
2 K.S.A. 40-2,112, and amendments thereto, within the time prescribed in  
3 such section.

4 (14) *Rebates and other inducements in title insurance.* (a) No title  
5 insurance company or title insurance agent, or any officer, employee,  
6 attorney, agent or solicitor thereof, may pay, allow or give, or offer to pay,  
7 allow or give, directly or indirectly, as an inducement to obtaining any title  
8 insurance business, any rebate, reduction or abatement of any rate or  
9 charge made incident to the issuance of such insurance, any special favor  
10 or advantage not generally available to others of the same classification, or  
11 any money, thing of value or other consideration or material inducement.  
12 The words "charge made incident to the issuance of such insurance"  
13 includes, without limitations, escrow, settlement and closing charges.

14 (b) No insured named in a title insurance policy or contract nor any  
15 other person directly or indirectly connected with the transaction involving  
16 the issuance of the policy or contract, including, but not limited to,  
17 mortgage lender, real estate broker, builder, attorney or any officer,  
18 employee, agent representative or solicitor thereof, or any other person  
19 may knowingly receive or accept, directly or indirectly, any rebate,  
20 reduction or abatement of any charge, or any special favor or advantage or  
21 any monetary consideration or inducement referred to in subsection (14)  
22 (a).

23 (c) Nothing in this section shall be construed as prohibiting:

24 (i) The payment of reasonable fees for services actually rendered to a  
25 title insurance agent in connection with a title insurance transaction;

26 (ii) the payment of an earned commission to a duly appointed title  
27 insurance agent for services actually performed in the issuance of the  
28 policy of title insurance; or

29 (iii) the payment of reasonable entertainment and advertising  
30 expenses.

31 (d) Nothing in this section prohibits the division of rates and charges  
32 between or among a title insurance company and its agent, or one or more  
33 title insurance companies and one or more title insurance agents, if such  
34 division of rates and charges does not constitute an unlawful rebate under  
35 the provisions of this section and is not in payment of a forwarding fee or a  
36 finder's fee.

37 (e) As used in subsections (14)(e) through (14)(i), unless the context  
38 otherwise requires:

39 (i) "Associate" means any firm, association, organization, partnership,  
40 business trust, corporation or other legal entity organized for profit in  
41 which a producer of title business is a director, officer or partner thereof,  
42 or owner of a financial interest; the spouse or any relative within the  
43 second degree by blood or marriage of a producer of title business who is a

1 natural person; any director, officer or employee of a producer of title  
2 business or associate; any legal entity that controls, is controlled by, or is  
3 under common control with a producer of title business or associate; and  
4 any natural person or legal entity with whom a producer of title business or  
5 associate has any agreement, arrangement or understanding or pursues any  
6 course of conduct, the purpose or effect of which is to evade the provisions  
7 of this section.

8 (ii) "Financial interest" means any direct or indirect interest, legal or  
9 beneficial, where the holder thereof is or will be entitled to 1% or more of  
10 the net profits or net worth of the entity in which such interest is held.  
11 Notwithstanding the foregoing, an interest of less than 1% or any other  
12 type of interest shall constitute a "financial interest" if the primary purpose  
13 of the acquisition or retention of that interest is the financial benefit to be  
14 obtained as a consequence of that interest from the referral of title  
15 business.

16 (iii) "Person" means any natural person, partnership, association,  
17 cooperative, corporation, trust or other legal entity.

18 (iv) "Producer of title business" or "producer" means any person,  
19 including any officer, director or owner of 5% or more of the equity or  
20 capital or both of any person, engaged in this state in the trade, business,  
21 occupation or profession of:

22 (A) Buying or selling interests in real property;

23 (B) making loans secured by interests in real property; or

24 (C) acting as broker, agent, representative or attorney for a person  
25 who buys or sells any interest in real property or who lends or borrows  
26 money with such interest as security.

27 (v) "Refer" means to direct or cause to be directed or to exercise any  
28 power or influence over the direction of title insurance business, whether  
29 or not the consent or approval of any other person is sought or obtained  
30 with respect to the referral.

31 (f) No title insurer or title agent may accept any order for, issue a title  
32 insurance policy to, or provide services to, an applicant if it knows or has  
33 reason to believe that the applicant was referred to it by any producer of  
34 title business or by any associate of such producer, where the producer, the  
35 associate, or both, have a financial interest in the title insurer or title agent  
36 to which business is referred unless the producer has disclosed to the  
37 buyer, seller and lender the financial interest of the producer of title  
38 business or associate referring the title insurance business.

39 (g) No title insurer or title agent may accept an order for title  
40 insurance business, issue a title insurance policy, or receive or retain any  
41 premium, or charge in connection with any transaction if: (i) The title  
42 insurer or title agent knows or has reason to believe that the transaction  
43 will constitute controlled business for that title insurer or title agent; and



1 (ii) 70% or more of the closed title orders of that title insurer or title agent  
2 during the 12 full calendar months immediately preceding the month in  
3 which the transaction takes place is derived from controlled business. The  
4 prohibitions contained in this paragraph shall not apply to transactions  
5 involving real estate located in a county that has a population, as shown by  
6 the last preceding decennial census, of 10,000 or less.

7 (h) Within 90 days following the end of each business year, as  
8 established by the title insurer or title agent, each title insurer or title agent  
9 shall file with the department of insurance and any title insurer with which  
10 the title agent maintains an underwriting agreement, a report executed by  
11 the title insurer's or title agent's chief executive officer or designee, under  
12 penalty of perjury, stating the percent of closed title orders originating  
13 from controlled business. The failure of a title insurer or title agent to  
14 comply with the requirements of this section, at the discretion of the  
15 commissioner, shall be grounds for the suspension or revocation of a  
16 license or other disciplinary action, with the commissioner able to mitigate  
17 any such disciplinary action if the title insurer or title agent is found to be  
18 in substantial compliance with competitive behavior as defined by federal  
19 housing and urban development statement of policy 1996-2.

20 (i) (1) No title insurer or title agent may accept any title insurance  
21 order or issue a title insurance policy to any person if it knows or has  
22 reason to believe that such person was referred to it by any producer of  
23 title business or by any associate of such producer, where the producer, the  
24 associate, or both, have a financial interest in the title insurer or title agent  
25 to which business is referred unless the producer has disclosed in writing  
26 to the person so referred the fact that such producer or associate has a  
27 financial interest in the title insurer or title agent, the nature of the  
28 financial interest and a written estimate of the charge or range of charges  
29 generally made by the title insurer or agent for the title services. Such  
30 disclosure shall include language stating that the consumer is not obligated  
31 to use the title insurer or agent in which the referring producer or associate  
32 has a financial interest and shall include the names and telephone numbers  
33 of not less than three other title insurers or agents that operate in the  
34 county in which the property is located. If fewer than three insurers or  
35 agents operate in that county, the disclosure shall include all title insurers  
36 or agents operating in that county. Such written disclosure shall be signed  
37 by the person so referred and must have occurred prior to any commitment  
38 having been made to such title insurer or agent.

39 (2) No producer of title business or associate of such producer shall  
40 require, directly or indirectly, as a condition to selling or furnishing any  
41 other person any loan or extension thereof, credit, sale, property, contract,  
42 lease or service, that such other person shall purchase title insurance of any  
43 kind through any title agent or title insurer if such producer has a financial

1 interest in such title agent or title insurer.

2 (3) No title insurer or title agent may accept any title insurance order  
3 or issue a title insurance policy to any person it knows or has reason to  
4 believe that the name of the title company was pre-printed in the sales  
5 contract, prior to the buyer or seller selecting that title company.

6 (4) Nothing in this paragraph shall prohibit any producer of title  
7 business or associate of such producer from referring title business to any  
8 title insurer or title agent of such producer's or associate's choice, and, if  
9 such producer or associate of such producer has any financial interest in  
10 the title insurer, from receiving income, profits or dividends produced or  
11 realized from such financial interest, so long as:

12 (a) Such financial interest is disclosed to the purchaser of the title  
13 insurance in accordance with paragraphs (i)(1) through (i)(4);

14 (b) the payment of income, profits or dividends is not in exchange for  
15 the referral of business; and

16 (c) the receipt of income, profits or dividends constitutes only a return  
17 on the investment of the producer or associate.

18 (5) Any producer of title business or associate of such producer who  
19 violates the provisions of paragraphs (i)(2) through (i)(4), or any title  
20 insurer or title agent who accepts an order for title insurance knowing that  
21 it is in violation of paragraphs (i)(2) through (i)(4), in addition to any other  
22 action that may be taken by the commissioner of insurance, shall be  
23 subject to a fine by the commissioner in an amount equal to five times the  
24 premium for the title insurance and, if licensed pursuant to K.S.A. 58-3034  
25 et seq., and amendments thereto, shall be deemed to have committed a  
26 prohibited act pursuant to K.S.A. 58-3602, and amendments thereto, and  
27 shall be liable to the purchaser of such title insurance in an amount equal  
28 to the premium for the title insurance.

29 (6) Any title insurer or title agent that is a competitor of any title  
30 insurer or title agent that, subsequent to the effective date of this act, has  
31 violated or is violating the provisions of this paragraph, shall have a cause  
32 of action against such title insurer or title agent and, upon establishing the  
33 existence of a violation of any such provision, shall be entitled, in addition  
34 to any other damages or remedies provided by law, to such equitable or  
35 injunctive relief as the court deems proper. In any such action under this  
36 subsection, the court may award to the successful party the court costs of  
37 the action together with reasonable attorney fees.

38 (7) The commissioner shall also require each title agent to provide  
39 core title services as required by the real estate settlement procedures act.

40 (j) The commissioner shall adopt any regulations necessary to carry  
41 out the provisions of this act.

42 (15) *Disclosure of nonpublic personal information.* (a) No person  
43 shall disclose any nonpublic personal information contrary to the

1 provisions of title V of the Gramm-Leach-Bliley act of 1999 (public law  
2 106-102). The commissioner may adopt rules and regulations necessary to  
3 carry out this subsection. Such rules and regulations shall be consistent  
4 with and not more restrictive than the model regulation adopted on  
5 September 26, 2000, by the national association of insurance  
6 commissioners entitled "Privacy of consumer financial and health  
7 information regulation".

8 (b) Nothing in this subsection shall be deemed or construed to  
9 authorize the promulgation or adoption of any regulation that preempts,  
10 supersedes or is inconsistent with any provision of Kansas law concerning  
11 requirements for notification of, or obtaining consent from, a parent,  
12 guardian or other legal custodian of a minor relating to any matter  
13 pertaining to the health and medical treatment for such minor.

14 Sec. 31. K.S.A. 75-4208 is hereby amended to read as follows: 75-  
15 4208. (a) *Except as provided in subsection (b)*, the board shall follow the  
16 procedure prescribed in rules and regulations adopted under the provisions  
17 of K.S.A. 75-4232, *and amendments thereto*, in designating banks to  
18 receive deposit of state moneys in operating accounts and investment  
19 accounts. The board shall determine which banks shall receive state  
20 operating and investment accounts and shall designate the types of  
21 accounts to be awarded each such bank and the initial amount of each  
22 award. Such initial awards which are operating accounts shall be made as  
23 provided in K.S.A. 75-4205, and amendments thereto. Such initial awards  
24 which are investment accounts shall be awarded as is provided in K.S.A.  
25 75-4209, and amendments thereto. Upon making the awards provided for  
26 above, the board shall notify each bank of its award, and that the same is  
27 subject to approval of securities to be pledged as prescribed in this act.

28 (b) *The board shall not designate a bank to receive deposit of state*  
29 *moneys in operating accounts or investment accounts if such bank has*  
30 *been listed by the state treasurer as a restricted financial institution as*  
31 *provided in section 15, and amendments thereto. Any agreement awarding*  
32 *the deposit of state moneys in operating accounts or investment accounts*  
33 *for a term commencing on or after July 1, 2024, shall comply with the*  
34 *provisions of section 18, and amendments thereto.*

35 Sec. 32. K.S.A. 75-4208 and K.S.A. 2022 Supp. 40-2404 are hereby  
36 repealed.

37 Sec. 33. This act shall take effect and be in force from and after its  
38 publication in the statute book.