

Approved: 5-1-93
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Chairman Lana Oleen at 11:05 a.m. on March 9, 1993 in Room 254-E of the Capitol.

All members were present except:
Sen. Gooch was excused

Committee staff present: Mary Galligan, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:
See attached list

Others attending: See attached list

Sen. Oleen introduced pages assisting the committee today and stated they are from Manhattan and their mothers work at her husband's law firm.

The Chairman, Sen. Oleen, opened the hearing for HB 2124, concerning the fire prevention code and violations, and introduced Ross Boelling who testified as a proponent (Attachment 1). Sen. Hensley asked Mr. Boelling if he concurred with the House amendment which changed the maximum allowable fine from \$2,500 to \$1,000, and Mr. Boelling replied that they can work with the \$1,000 fine. Sen. Oleen questioned the procedure used once an establishment is found to have violated the fire code. Mr. Boelling stated that when a violation occurs, the fire inspector leaves a copy of the violation notice, then the department follows up with a call to ascertain corrective action. He stated the department expects a response from the violator within a flexible time frame (25 to 60 days) and negotiates with the violator, especially if the correction involves more time and an expenditure of a large sum of money. Sen. Oleen also questioned procedures involved with violations at nursing homes and hospitals when other departments also inspect the premises, such as the Department of Health and Environment and SRS. Mr. Boelling assured her that the Fire Marshal's Office works with other agencies to monitor violations and corrective actions taken. He stated the department has cooperated with other agencies in the past and would continue to do so and that it is not the intent of the department to issue a fine on the first violation; that it is important to identify the violation and oversee what corrective action is taken and when and to cooperate with other agencies, which might be involved, to ensure compliance with the fire code. Sen. Oleen closed the hearing on the bill after seeing there was no further testimony.

Sen. Oleen opened the hearing on HB 2140, amending the Civil Service Act, regarding veterans' preference, and introduced Charles Yunker who appeared as a proponent (Attachment 2). Mr. Yunker answered questions regarding who would be included under this amendment, which would include the full-time Guard and retirees. He also stated in answer to a question from Sen. Parkinson that a veteran is given 5 points out of a possible 100, while a disabled veteran is given 10 points. Sen. Oleen stated this does not guarantee a veteran a job, but does give the veteran an opportunity for an interview, and that it is her understanding that in the next two to four years, 800 to 1,000 persons will be discharged from the Service due to cutbacks. She also asked who requested the bill, and Mr. Yunker answered Rep. Larkin spoke with them prior to requesting the bill. Mr. Yunker stated the main point of the amendment is to extend coverage to Desert Storm veterans and remove the necessity of waiting for long periods of time for verification from the U.S. Department of Veterans Affairs, which takes several months, sometimes years, for documentation regarding issuing a Purple Heart and military separation documents. It also eliminates the need for periodic updates to the law. No one else appeared to give testimony.

Sen. Oleen called the committees' attention to SB 81 and 181, which have had hearings previously. She asked Mary Torrence to explain proposed amendments to SB 181 (Attachment 3), which includes a proposed amendment (on Pages 8 & 9) by Mary Magnuson in her testimony. It also incorporates SB 81 on Page 10.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E
Statehouse, at 11:05 a.m. on March 9, 1993.

Sen. Oleen recognized Jim Conant from ABC, and he indicated the agency is not opposed to the amendments. Sen. Hensley made a motion the committee adopt the amendments to SB 181, and it was seconded by Sen. Ramirez; the motion passed. Sen. Jones made a motion the committee recommend SB 181 favorably as amended, and it was seconded by Sen. Papay; the motion passed.

Sen. Oleen requested the committee look at HB 2126 and stated the need for clarification on the bill. She stated the Fire Marshal's Office requested the bill, and it provides for personal service for violations at the time of inspection. At the time of the hearing, committee members were concerned that the proper, responsible person be served and if, in some circumstances, that would be possible. The Fire Marshal's representative testified his dissatisfaction with the House amendments and requested they be removed, or the committee kill the bill. Sen. Walker asked for clarification as to what is the present law and Sen. Parkinson stated the bill as it is amended is more restrictive. Sen. Walker made a motion the bill be amended and remove House amendments, (Attachment 4), and it was seconded by Sen. Parkinson; the motion passed. Sen. Parkinson made a motion the bill be moved favorably as amended, and it was seconded by Sen. Walker; the motion passed. Sen. Walker will carry the bill on the Senate floor.

Sen. Oleen recognized Rep. Bruce Larkin, who was not present for testimony on HB 2140. He stated the bill updates provisions for veterans' preference and asked the committee to support the bill. Mr. Yunker, who appeared in support of the bill, emphasized that veterans' preference is not automatic; that this provision does not involve every service person; only those involved in active duty during a time of conflict or humanitarian effort will be eligible. Sen. Oleen asked for action on the bill, and Sen. Walker made a motion the bill be reported favorably, and it was seconded by Sen. Hensley; the motion passed.

Sen. Oleen introduced Wilton Waverly, who attends Manhattan High School and is writing a paper on public service and will be observing the Senate today. He was accompanied by Bill Coleman from the Manhattan Mercury.

Sen. Hensley asked for recognition to explain a bill draft (Attachment 5) which would create a state workers compensation liability insurance fund, which has been established in other states, but would be new to Kansas. He stated he had visited with Sen. Salisbury since the bill will likely be referred to the Commerce Committee. Sen. Hensley made a motion the committee sponsor it as a bill, and it was seconded by Sen. Walker; the motion passed.

Meeting adjourned at 11:50.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: MARCH 9, 1993

[illegible]

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

AGENDA

MARCH 9, 1993

HB 2124 - Proponent

Ross Boelling, Chief, Fire Prevention Division

HB 2140 - Proponent

Charles Yunker, American Legion

Attach. 1



"Where Fire Safety Is A Way Of Life"

Kansas State Fire Marshal Department
700 Jackson, Suite 600
Topeka, Kansas 66603-3714
Phone (913) 296-3401
FAX (913) 296-0151

Joan Finney
Governor

Edward C. Redmon
Fire Marshal

**TESTIMONY OF ROSS K. BOELLING
FIRE PREVENTION DIVISION CHIEF
KANSAS STATE FIRE MARSHAL DEPARTMENT
BEFORE THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
MARCH 9, 1993
HB 2124**

On behalf of the Kansas State Fire Marshal, I want to thank the committee for holding this hearing on HB 2124. This bill will provide another enforcement tool which the Kansas State Fire Marshal can use to improve the level of fire and life safety in Kansas.

As a bit of history, this bill was originally introduced in the Senate last year and passed unanimously but did not have sufficient time to be heard in the House. The bill is drafted almost verbatim from the administrative penalty statute of the Corporation Commission, K.S.A. 55-164. This year, we requested the bill in the House. The House amended the bill to reduce the maximum penalty to \$1,000 and removed language pertaining to the daily compounding of penalty.

The Kansas State Fire Marshal is the primary state agency charged with insuring a reasonable degree of fire and life safety is provided for Kansas citizens. The legislature has provided the agency with broad authority to conduct inspections, investigate fires and license firms providing fire equipment services or who are involved in using high explosives. Our existing enforcement authority provides us several options to obtain compliance with fire and life safety deficiencies. Included in this inspection and licensing authority is the ability to issue Cease and Desist Orders, file criminal complaints, request injunctions, pursue class B misdemeanor charges, or revoke State Fire Marshal issued licenses and permits.

Kansas State Fire Marshal inspectors currently conduct approximately 650 inspections each month and we issue approximately 800 enforcement actions of various types each month. Our enforcement process involves several steps to obtain compliance. We acknowledge the time and resources necessary to comply with some of the fire safety requirements and we work towards obtaining compliance within a reasonable time frame, however we do expect the facility to move towards compliance.

This enforcement process works well in most cases, however we believe there are some types of violations where a direct economic deterrent would be most effective method to obtain and maintain compliance with the Kansas Fire Prevention Code.

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Sen. F. + S. Q.
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Page 2
Ross K. Boelling
Testimony on HB 2124.

We believe the bill would provide this deterrent while also providing protection from our overzealous use on the regulated community. The authority provided by this bill to the Kansas State Fire Marshal would be used judiciously and any penalty amounts for specific violations would be identified by our Administrative Rules and Regulations. It is not our desire nor intent to issue an administrative fine which removes the capital necessary to correct outstanding violations.

That being said, let me explain a few of the situations where an administrative penalty would be beneficial. There are a few facilities we inspect who have a tendency to chain and padlock exit doors. The facility substantially meets fire codes, has the necessary exit and exit lights, but arbitrarily chains the door. We cite the violation, however in all likelihood, the chains and locks would reappear when we leave the building. By providing a direct financial impact, the importance of compliance would increase in the eyes of the facility operator. Likewise, there are facilities which continually overcrowd or exceed the posted safe occupant capacity. It is an economic benefit to the owner to overcrowd the facility, however, removing that benefit through an administrative penalty would increase the likelihood of compliance with capacity limits.

In our licensing programs, there are situations where an employee improperly conducts service or where record keeping violations occur. Our license is issued to the company providing the service, not to each individual employee. Currently, our only option is to revoke or suspend the license of the firm. There is a lot of room between where the Kansas Fire Prevention Code is violated and the nature of violations warrants revocation of a license. This bill would benefit our oversight of these licensing programs.

Last fall an employee of a licensed company didn't follow proper procedures in servicing multiple portable fire extinguishers. During our hearing on the matter, I requested the revocation of the license. The company admitted to the problem and fired the employee. They were willing to pay a monetary fine, but fought giving up their license which effectively put the company out of business. The State Fire Marshal ended up not revoking the license but felt uncomfortable at only slapping the company's hand for a rather serious violation. An administrative penalty would have been appropriate in this case.

In summary, we support this bill as passed by the House and ask that you report it favorably. We believe the authority would enhance our enforcement capabilities, while, at the same time, provides appropriate oversight controls and protects the appeal rights of the regulated community. Thank you for your time, I would be happy to answer any questions you may have.

Attach. 2

HOUSE BILL NO. 2140
TESTIMONY BY CHARLES M. YUNKER, DEPARTMENT ADJUTANT
THE AMERICAN LEGION, DEPARTMENT OF KANSAS
MARCH 9, 1993

On behalf of the more than 60,000 members of The American Legion, Department of Kansas, I want to thank you for allowing me the opportunity to address you today in support of House Bill 2140.

Over the years K.S.A. 75-2955 has required revisions to update the Kansas civil service act as it relates to veterans' preferences as this nation became involved in more wars. HB 2140 would again update K.S.A. 75-2955 to include our most recent veterans. However HB 2140 takes a few more steps than the periodic updating I've just mentioned.

As proposed, HB 2140 will eliminate the need for periodic updating of K.S.A. 75-2955 due to future conflicts and wars which I hope our Nation can avoid; further it will expand the methods in which a veteran may claim his or her veterans preference points on civil service examinations by including verification of the issuance of a Purple Heart and/or military separation documentation which include a statement verifying service connected disability.

By expanding the methods a veteran may claim veterans preference points, veterans will no longer need to rely solely upon the United States Department of Veterans Affairs to provide the necessary documentation which can take several months, and in some cases, over a year to obtain those documents from the Department of Veterans Affairs. The American Legion believes K.S.A. 75-2955 will go a long way in assisting veterans, especially those who will be discharged over the next several years with the downsizing of our military.

Again, thank you for allowing me the opportunity to address you today and to urge your support of HB 2140.

Sen. F. & S.C.
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Sen. Jones

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Sen. Jones

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Again, thank you for allowing me the opportunity to address you today and to urge your support of HB 2140.

SENATE BILL No. 181

By Senators Oleen, Jones, Bogina, Emert, Hensley, Lawrence, Martin, Morris, Papay, Ramirez, Steffes, Tiahrt, Vidricksen and Wisdom

2-3

AN ACT concerning bingo; relating to instant bingo; levying certain taxes; amending K.S.A. 79-4701, 79-4704, 79-4705, 79-4706, 79-4710 and 79-4711 and repealing the existing sections. providing for administrative fines for certain violations;

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

Section 1. K.S.A. 79-4701 is hereby amended to read as follows: 79-4701. As used in this act, each of the following words and phrases shall have the following meaning unless the context otherwise requires:

(a) "Bingo" means *the games of call bingo and instant bingo*.
(b) "Call bingo" means a game in which each participant must pay a charge and a prize or prizes are awarded to the winner or winners in which each participant receives one or more cards or in which a card or cards are included in a paper game program booklet each of which is marked off into 25 squares arranged in five horizontal rows of five squares each and five vertical rows of five squares each, with each square being designated by number, letter or combination of numbers and letters, and only the center square designated with the word "free" with no two cards being identical, with the players covering squares as the operator of such game announces a number, letter or combination of numbers and letters appearing on an object selected by chance, either manually or mechanically from a receptacle in which have been placed objects bearing numbers, letters or combinations of numbers and letters corresponding to the system used for designating the squares, with the winner of each game being the player or players first properly covering a predetermined and announced pattern of squares upon the card or a card which is included in a paper game program booklet being used by such player or players.

(c) "Instant bingo" means a game: (1) In which each participant must pay a charge; (2) in which a prize or prizes are awarded to the winner or winners; (3) in which each participant receives one or more disposable tickets which accord a participant an opportunity to win something of value by opening, detaching or otherwise re-

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1 one week.

2 (†) (s) No premises shall be subdivided to provide multiple prem-
3 ises where games of bingo are managed, operated or conducted,
4 whether or not the multiple premises have different addresses.

5 (s) (t) No game of bingo shall be managed, operated or conducted
6 on leased premises if at any time during the immediately preceding
7 44 hours the premises, or any leased premises within 1,000 feet of
8 them, have been used for the management, operation or conduct of
9 a game of bingo.

10 (†) (u) Every licensee who has gross receipts of \$1,000 or more
11 received from participation in games, admission fees or charges and
12 from any other source directly related to the operation or conduct
13 of any bingo games in any calendar month shall maintain a bingo
14 trust bank account into which all such receipts are deposited daily
15 and from which all payments are made relating to the management,
16 operation or conduct of any bingo games, except payment of prizes
17 of less than \$100. Having once established such bingo trust bank
18 account, the licensee shall continue to make deposits of all receipts
19 therein. Every licensee shall notify the secretary of revenue of the
20 name of the bank in which the bingo trust bank account is main-
21 tained, together with the number and name of the account. Every
22 licensee who maintains a bingo trust bank account shall maintain a
23 complete record of all deposits and withdrawals from such bank
24 account and the same shall be available to the secretary of revenue
25 or the secretary's agents or investigators to audit at any reasonable
26 time.

27 (†) (v) The records required under subsection (†) (u) are in ad-
28 dition to all other records required to be kept by the licensee by
29 statute or rules and regulations. The records required by subsection
30 (†) (u) shall be maintained in the same place as all other records
31 required to be kept by the licensee.

32 (w) *No instant bingo ticket shall be sold by a licensee more than*
33 *one hour prior to the start of the first game of call bingo for the*
34 *day or after the termination of the last game of call bingo operated*
35 *or conducted by the licensee for such calendar day.*

36 (x) *No licensee shall purchase disposable paper call bingo cards*
37 *or instant bingo tickets from any person or entity other than a bingo*
38 *card distributor registered by the secretary of revenue as provided*
39 *in this act.*

40 (y) *All instant bingo tickets sold or distributed to licensees shall*
41 *bear on the face thereof the amount for which such tickets will be*
42 *sold by the licensee, the business name of the bingo card distributor,*
43 *the Kansas bingo license number of the licensee to which sold and*

1 a unique serial number which shall not ~~repeat less than every five~~
2 years. All instant bingo tickets shall be sold or distributed in boxes,
3 and each ~~such~~ box shall contain tickets printed in such a manner
4 as to insure that at least 60% of the gross revenues generated by
5 the ultimate sale of all tickets from such box shall be returned to
6 the final purchasers of such tickets. No box of instant bingo tickets
7 may be opened by a licensee unless all tickets contained in a pre-
8 viously opened box ~~of the same description~~ have been sold.

9 New Sec. 5. (a) No person or entity shall sell or otherwise dis-
10 tribute any disposable paper call bingo cards or instant bingo tickets
11 to any organization licensed under the provisions of this act unless
12 and until such person or entity has made application for and has
13 been issued a bingo card distributor registration certificate by the
14 secretary of revenue. Application for registration shall be accom-
15 panied by a fee in the amount of \$500 and shall be made upon forms
16 prescribed by the secretary.

17 (b) Each bingo card distributor registration certificate shall expire
18 at midnight on June 30 following its date of issuance. Application
19 for renewal of a registration certificate shall be accompanied by a
20 fee in the amount of \$500 and shall be made upon forms prescribed
21 by the secretary.

22 (c) The secretary of revenue shall establish by rule and regulation
23 reasonable criteria for approval of bingo card distributors. The sec-
24 retary of revenue may refuse to register a bingo card distributor if
25 any owner, manager or employee thereof has, within five years prior
26 to registration, been convicted of or pleaded guilty or nolo conten-
27 dere to any felony or illegal gambling violation in this or any other
28 jurisdiction.

29 (d) All bingo card distributors shall maintain for a period of not
30 less than three years full and complete records of all disposable
31 paper call bingo cards and instant bingo tickets sold to licensees
32 within this state. Such records shall be made available for inspection
33 by any authorized representative of the secretary of revenue.

34 Sec. 6. K.S.A. 79-4710 is hereby amended to read as follows:
35 79-4710. (a) All amounts received by or for the secretary of revenue
36 from license fees pursuant to K.S.A. 79-4703 and amendments
37 thereto and registration fees pursuant to this act shall be remitted
38 to the state treasurer and the state treasurer shall deposit all of such
39 moneys in the state treasury and, except as otherwise provided by
40 K.S.A. 79-4711 and amendments thereto for maintenance of the
41 bingo refund fund, shall credit the same to the state general bingo
42 regulation fund.

43 (b) All amounts received by or for the secretary of revenue from

be repeated on the same manufacturer's form number less than
every three

shall be sealed by the manufacturer with a seal which includes a
warning to the purchaser that the box may have been tampered with
if the box was received by the purchaser with the seal broken.
Each box of instant bingo tickets

with the same form number

(z) Each box of instant bingo tickets sold or distributed to
licensees shall be accompanied by a flare which contains the
following information: (1) The name of the game; (2) the
manufacturer's name or logo; (3) the game form number; (4) the
ticket count in the game; (5) the prize structure for the game,
which includes the number of winning tickets by denomination and
their respective winning symbol or number combinations; (6) the
cost per ticket; (7) the game serial number; (8) the winning
numbers or symbols for the top three winning tiers set out in
such a manner that each prize may be marked off as the prize is
won and awarded; (9) the business name of the bingo card
distributor; and (10) the Kansas bingo license number of the
licensee to which the game is sold.

the tax levied pursuant to K.S.A. 79-4704 and amendments thereto shall be remitted to the state treasurer and the state treasurer shall deposit all of such moneys in the state treasury. There is hereby created, in the state treasury, the state bingo regulation fund and the county and city bingo tax fund. Subject to the maintenance requirements of the bingo refund fund under K.S.A. 79-4711 and amendments thereto, $\frac{1}{3}$ of each deposit shall be credited to the state general fund, $\frac{1}{3}$ of each deposit to the state bingo regulation fund and the remaining $\frac{1}{3}$ of such deposit shall be credited to the county and city bingo tax fund. Moneys in the state bingo regulation fund shall be expended for the enforcement of the bingo statutes in article 47 of chapter 79 of Kansas Statutes Annotated and rules and regulations adopted pursuant thereto. Such expenditures shall be made upon vouchers approved by the secretary of revenue or a person designated by the secretary.

(c) All moneys deposited in the county and city bingo tax fund shall be returned to the counties and cities in which the locations and registered premises are located at a time or times fixed by the secretary but not less than once each year. If the locations and registered premises are located within the corporate limits of a city, all taxes collected therefrom shall be remitted to the city treasurer of such city and credited to the city general fund. If the locations and registered premises are located within the unincorporated area of any county, all taxes collected therefrom shall be remitted to the county treasurer of such county and credited to the county general fund. Moneys distributed to cities and counties under this section shall be used to assist in the enforcement of the bingo laws of this state.

Sec. 7. K.S.A. 79-4711 is hereby amended to read as follows: 79-4711. There is hereby created the bingo refund fund in the state treasury. The bingo refund fund shall be a refund clearing fund and refunds of the fees imposed under K.S.A. 79-4703 and amendments thereto and of the tax levied under K.S.A. 79-4704 and amendments thereto shall be made from this fund. The bingo refund fund shall be maintained by the secretary of revenue from the fees received under K.S.A. 79-4703 and license and registration fees received under this act and from the tax collected under K.S.A. 79-4704 and amendments thereto in an amount sufficient for such refunds of not to exceed ten thousand dollars (\$10,000) \$10,000.

New Sec. 8. If any provision of this act or the application thereof to any person or circumstances is held unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the act which can be given effect without

SB 81 - Incorporates (ABC)

New Sec. 8. (a) In addition to or in lieu of any other civil or criminal penalty provided by law, the secretary of revenue or the secretary's designee, upon a finding that a licensee under K.S.A. 79-4703 and amendments thereto has violated any provision of K.S.A. 79-4701 through 79-4705, 79-4705a, 79-4706, 79-4707, 79-4708, 79-4710, 79-4711 or section 5, and amendments thereto, or any provision of any rule and regulation of the secretary of revenue for the registration, licensing, taxing, management, conduct or operation of bingo, may impose on such licensee a civil fine not exceeding \$500 for each violation.

(b) No fine shall be imposed pursuant to this section except upon the written order of the secretary of revenue or the secretary's designee to the licensee who committed the violation. Such order shall state the violation, the fine to be imposed and the right of the licensee to appeal the order. Such order shall be subject to appeal and review in the manner provided by the Kansas administrative procedures act.

(c) Any fine collected pursuant to this section shall be paid to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to the state bingo regulation fund.

Renumber remaining sections accordingly

Attach. 4 3

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REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your Committee on Federal and State Affairs

Recommends that House Bill No. 2126 (As Amended by House Committee)

"AN ACT concerning fire safety and prevention; relating to notice of violations; amending K.S.A. 31-150a and repealing the existing section."

Be amended:

On page 1, in line 24, by striking "may be"; by striking all of line 28; in line 29, by striking all before the period and inserting "may be sent by restricted mail, as defined in K.S.A. 60-103 and amendments thereto, but refusal of the addressee to receive such notice shall constitute receipt thereof, or such notice may be served personally by the state fire marshal or the state fire marshal's deputies";

And the bill be passed as amended.

Chairperson

Sen. Z. A. Q.
2-9-93
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BILL NO. _____

By

AN ACT creating a nonprofit state workers compensation liability insurance fund as a public corporation; relating to the availability and affordability of workers compensation insurance and prompt payment of benefits to injured workers; prescribing certain powers, duties and functions; authorizing a loan by the pooled money investment board; prescribing certain reports.

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

Section 1. As used in this act:

(a) "Manager" means the manager of the state workers compensation liability insurance fund.

(b) "Fund" means the state workers compensation liability insurance fund created by section 2 and amendments thereto.

(c) "Board" means the board of directors of the state workers compensation liability insurance fund.

(d) "Personal injury" or "injury" have the meaning ascribed thereto by subsection (e) of K.S.A. 55-508 and amendments thereto.

Sec. 2. (a) There is hereby created the state workers compensation liability insurance fund as a nonprofit independent public corporation for the purpose of insuring employers against liability for personal injuries for which their employees may be entitled to benefits under the workers compensation act.

(b) The fund shall be organized and operated as a domestic mutual insurance company.

(c) The board of directors of the fund shall be composed of six members and the manager of the fund. Each director shall hold office until a successor is appointed and qualified. Except as otherwise provided by this section, each director shall

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represent a policyholder and may be an employee of a policyholder. A policyholder may designate a person to represent such policyholder on the board. The initial board of directors shall consist of the state treasurer, or the treasurer's designee, who shall serve ex officio, and six members appointed by the governor. Upon the appointment of a manager by the board, the manager shall replace the state treasurer, or treasurer's designee, as a member of the board of directors. Each member of the initial board of directors shall be either an employer or employee. Upon the expiration of the terms of the initial board and thereafter, if the fund is operational and issuing policies, the governor shall appoint three members of the board of directors. The remaining three directors shall be elected by the fund's policyholders. At least two members of the board shall represent private, for profit enterprises. No member of the board may represent or be an officer or employee of an insurance company.

(d) The term of office of each member of the board shall be four years. Each member shall be entitled to reasonable reimbursement for expenses incurred in their official capacity of not to exceed \$2,500 annually. The board shall organize annually by electing a chairperson and such other officers as the board deems necessary for the performance of its duties.

Sec. 3. (a) The board is vested with full power, authority and jurisdiction over the management and supervision of the fund. The board may perform all acts necessary or convenient in the exercise of any power, authority or jurisdiction over the fund, either in the administration of the fund or in connection with the insurance business to be carried on by fund under the provisions of this act, as fully and completely as the governing body of a private insurance carrier to fulfill the objectives and intent of this act.

(b) The board may invest the moneys of the fund in bankers' acceptances, certificates of deposit, commercial paper, mortgage participation certificates and pools, repurchase agreements and

reverse repurchase agreements, guaranteed investment contracts, savings accounts, and guaranty fund certificates, surplus notes, or debentures of domestic mutual insurance companies, except that investments in savings accounts shall be limited to savings accounts that are fully insured by the federal deposit insurance corporation or the federal savings and loan insurance corporation.

Sec. 4. The members of the board and officers or employees of the fund shall not be liable personally, either jointly or severally, for any debt or obligation created or incurred by the fund.

Sec. 5. The fund may insure an employer against any workers compensation claim arising out of and in the course of employment, as fully as any other insurer.

Sec. 6. For the purpose of exercising the specific powers granted by this act and effectuating the other purposes of this act, the fund may:

- (a) Sue and be sued;
- (b) have a seal and alter it at will;
- (c) make, amend and repeal rules relating to the conduct of the business of the fund;
- (d) enter into contracts relating to the administration of the fund;
- (e) rent, lease, buy or sell property in its own name and may construct or repair buildings necessary to provide space for its operations;
- (f) declare a dividend when there is an excess of assets over liabilities, and minimum surplus requirements;
- (g) pay medical expenses, rehabilitation expenses, compensation due claimants of insured employers, pay salaries and pay administrative and other expenses;
- (h) hire personnel and set salaries and compensation; and
- (i) perform all other functions and exercise all other powers of a domestic mutual insurance company that are necessary, appropriate or convenient to administer the fund, except that the

fund shall not be a member of the national council of compensation insurance.

Sec. 7. (a) The board shall appoint a manager of the fund who shall be in charge of the day-to-day operations of the fund. The manager shall have proven, successful experience as an executive at the general management level. The manager shall receive compensation as fixed by the board and shall serve at the pleasure of the board.

(b) Before entering on the duties of the office, the manager shall qualify by giving an official bond in an amount and with sureties approved by the board. The manager shall file the bond with the secretary of state. The premium for the bond shall be paid by the fund from the state workers compensation liability account.

(c) The manager shall make safety inspections of risks and furnish advisory services to employers on safety and health measures. The manager may act for the fund in collecting and disbursing money necessary to administer the fund and conduct the business of the fund. The manager shall have an abstract summary of any audit or survey conducted. The manager may perform all acts necessary in the exercise of any power, authority or jurisdiction over the fund, either in the administration of the fund or in connection with the insurance business to be carried on by the fund under this act, including the establishment of premium rates.

Sec. 8. (a) There is hereby created and established under the jurisdiction and control of the fund a revolving account known as the state workers compensation liability account.

(b) The manager shall deposit all money collected or received under this act to the credit of the state workers compensation liability account. The money in the account may be used by the fund in carrying out its purposes under this act.

Sec. 9. All premiums and other money paid to the fund, all property and securities acquired through the use of money belonging to the fund, and all interest and dividends earned upon

money belonging to the fund and deposited or invested by the fund are the sole property of the fund and shall be used exclusively for the operation and obligations of the fund. The money of the fund is not and shall not be construed to be state money. The property of the fund is not and shall not be construed to be state property. The officers and employees of the fund shall not be considered to be state officers or employees. The fund shall not receive any moneys from the state treasury at any time other than as provided by section 12 and amendments thereto. The fund shall not be considered to be a state agency for any purpose.

Sec. 10. Private independent insurance agents licensed to sell workers compensation insurance in this state may sell insurance coverage for the fund according to rules adopted by the board. The board shall also establish by rule a schedule of commissions which the fund will pay for the services of an agent.

Sec. 11. The manager shall submit an annual report to the governor and legislature during each regular session of the legislature indicating the business done by the fund during the previous year and containing a statement of the resources and liabilities of the fund.

Sec. 12. (a) The pooled money investment board is authorized and directed to loan to the board of directors of the state workers compensation liability insurance fund an amount specified by such board of directors of not to exceed \$4,000,000. The pooled money investment board is authorized and directed to use any moneys in the operating accounts, investment accounts or other investments of the state of Kansas to provide the funds for such loan.

(b) The loan shall bear interest from the date of the loan under this section at an annual rate of interest which shall be adjusted annually at a rate equal to the market rate of the state effective on January 1 of such year.

(c) Subject to the provisions of this section, the term of the loan shall be negotiated by the pooled money investment board and the board of directors of the state workers compensation

liability insurance fund. The payment schedule shall not be less than 10 years and shall not be more than 15 years. No payments shall be made until October 1, 1995.

(d) The loan agreement shall be subject to approval by the state treasurer.

Sec. 13. The governor shall appoint the members of the initial board no later than September 30, 1993. The board shall act promptly to hire a manager, hire necessary officers and employees and acquire necessary facilities and supplies to begin operation. The fund shall begin providing workers compensation insurance coverage when the board determines that the fund is able to do so and all requirements under state law have been met. The fund shall not issue insurance policies to employers until the financial condition of the fund is approved for such purpose by the state treasurer.

Sec. 14. On or before April 1, 1994, the manager shall report to the legislature, the governor and the state treasurer on the operations of the fund up to that date. The report shall include but not be limited to:

(a) The volume of premiums insured through the fund and the share of the state workers compensation insurance market;

(b) the percentage division of premium dollars among various types of benefit payments and administrative costs for policies and claims under the fund;

(c) the average rate of return enjoyed by the fund on its invested assets;

(d) recommendations concerning desirable changes in the fund to promote its prompt and efficient administration of policies and claims;

(e) a recommendation to the legislature and governor regarding the continued operation of the fund; and

(f) any other information the governor deems appropriate.

Sec. 15. This act shall take effect and be in force from and after its publication in the statute book.