AN ACT concerning workers compensation insurance; pertaining to the
assigned risk pool; amending K.S.A. 2013 Supp. 40-2109 and repealing
the existing section.

Be it enacted by the Legislature of the State of Kansas:
Sec. 1. K.S.A. 2013 Supp. 40-2109 is hereby amended to read as
follows: 40-2109. (a) Every insurer undertaking to transact in this state the
business of either workers compensation or employer's liability insurance
or both, and every rating organization which files rates for such insurance
shall cooperate in the preparation and submission to the commissioner of
insurance of a plan or plans, for the equitable apportionment among
insurers of applicants for insurance who are in good faith, entitled to but
who are unable to procure through ordinary methods, such insurance. Such
plan or plans shall provide:
   (a) (1) Reasonable rules governing the equitable distribution of risks
by direct insurance, reinsurance or otherwise and their assignment to
insurers;
   (b) (2) rates and rate modifications applicable to such risks which
shall be reasonable, adequate and not unfairly discriminatory;
   (c) (3) a method whereby applicants for insurance, insured and
insurers may have a hearing on grievances and the right of appeal to the
commissioner; and
   (d) (4) for every such plan or plans, there shall be a governing board
to be appointed by the commissioner of insurance which shall meet at least
annually to review and prescribe operating rules, and which select a
chairperson and select the plan administrator through a competitive bid
process that shall provide for a contract with such plan administrator.
   (A) The governing board shall consist of the following members:
(1) seven 11 members who shall be appointed as follows: Three of
such members shall be representatives of foreign insurance companies,
two members shall be representatives of domestic insurance companies,
and two members shall be licensed independent insurance agents. Such
members shall be appointed for a term of three years, except that the initial
appointment shall include two members appointed for a two-year term and
two members appointed for a one year term, as designated by the
commissioner; and
Two members representative of the general public interest with such members to be appointed for a term of two years.

(i) Three members appointed from representatives of admitted insurance companies engaged in the workers compensation market in Kansas to be appointed by the commissioner of insurance. Each such representative shall be appointed for an initial term of three years;

(ii) three members appointed from representatives of admitted insurance companies engaged in the workers compensation market in Kansas to be appointed by the commissioner of insurance. Each such representative shall be appointed for an initial term of two years;

(iii) two members appointed by the Kansas association of insurance agents. One such member shall be appointed for an initial term of three years. One such member shall be appointed for an initial term of two years;

(iv) one member appointed by the national federation of independent businesses- Kansas chapter. Such member shall be appointed for an initial term of two years;

(v) one member appointed by the Kansas chamber of commerce. Such member shall be appointed for an initial term of three years; and

(vi) one member at-large appointed by the commissioner of insurance. Such member shall be appointed for an initial term of three years.

(B) The terms of all board members existing on the day preceding the effective date of this act shall terminate on the effective date of this act. This subparagraph shall not prohibit any such board member from being appointed to the new governing board.

(C) After the expiration of each member's initial term, the subsequent term for such member's position shall be equal to the initial term for such position. No appointee shall serve more than two consecutive terms; and

(5) for the performance of an independent financial audit. Such audit shall be performed biennially on the financial results of the plan. Such audit shall include, but not be limited to:

(A) Premiums written and earned;

(B) losses paid;

(C) incurred losses;

(D) taxes; and

(E) administration and servicing carrier allowances.

(b) The commissioner shall review the plan as soon as reasonably possible after filing in order to determine whether it meets the requirements set forth in subsections (a) and (c) above subsection (a). As soon as reasonably possible after the plan has been filed the commissioner shall in writing approve or disapprove the same, except that any plan shall be deemed approved unless disapproved within 45 days. Subsequent to the
waiting period the commissioner may disapprove any plan on the ground
that it does not meet the requirements set forth in subsections (a), (b) and
(c) above subsection (a), but only after a hearing held upon not less than
10 days' written notice to every insurer and rating organization affected
specifying the matter to be considered at such hearing, and only by an
order specifying in what respect the commissioner finds that such plan
fails to meet such requirements and stating when within a reasonable
period thereafter such plan shall be deemed no longer effective. Such order
shall not affect any assignment made or policy issued or made prior to the
expiration of the period set forth in such order. Amendments to such plan
or plans shall be prepared, and filed and reviewed in the same manner as
herein provided with respect to the original plan or plans.

(c) If no plan meeting the standards set forth in subsections (a), (b)
and (c) subsection (a) is submitted to the commissioner within the period
stated in any order, disapproving an existing plan the commissioner shall,
if necessary to carry out the purpose of this section after hearing, prepare
and promulgate a plan meeting such requirements. When such plan or
plans or amendments thereto have been approved or promulgated, no
insurer shall thereafter issue a policy of workers compensation or
employer's liability insurance or undertake to transact such business in this
state unless such insurer shall participate in such an approved or
promulgated plan. If, after a hearing conducted in accordance with the
provisions of the Kansas administrative procedure act, the commissioner
finds that any activity or practice of any insurer or rating organization in
connection with the operation of such plan or plans is unfair or
unreasonable or otherwise inconsistent with the provisions of this section
the commissioner may issue a written order specifying in what respects
such activity or practice is unfair or unreasonable or otherwise inconsistent
with the provisions of this section and requiring discontinuance of such
activity or practice.

(e) (d) The commissioner shall approve rates and rate modifications
for each plan that provides workers compensation insurance. This
provision shall not prohibit the application of surcharges, experience
modifications or other rating variables.

Sec. 2. K.S.A. 2013 Supp. 40-2109 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its
publication in the statute book.